No. 16-8255

IN THE

# Supreme Court of the United States

ROBERT MCCOY,
*Petitioner,*

*v.*

LOUISIANA,
*Respondent.*

**ON WRIT OF CERTIORARI TO THE SUPREME COURT OF LOUISIANA**

## JOINT APPENDIX
## VOLUME II OF II (JA432-JA760)


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**PETITION FOR CERTIORARI FILED MARCH 6, 2017**
**CERTIORARI GRANTED SEPTEMBER 28, 2017**

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**EXCERPT OF JULY 12, 2011 TRANSCRIPT RE MOTION FOR DISCOVERY AND MOTION TO QUASH SUBPOENAS**

**IN THE TWENTY-SIXTH JUDICIAL DISTRICT COURT**

**IN AND FOR THE PARISH OF BOSSIER**

**STATE OF LOUISIANA**

**STATE OF LOUISIANA**

**VERSUS** **NUMBER: 163,573**

**ROBERT LEROY MCCOY, II**

**EVIDENCE ADDUCED AT HEARING** in the above entitled and numbered cause, before Your Honor, Jeff Cox, Judge, of the Twenty- Sixth Judicial District Court in and for the Parish of Bossier, State of Louisiana, on the 12th day of July, 2011, at Benton, Bossier Parish, Louisiana.

**APPEARANCES:**

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BOSSIER PARISH DISTRICT ATTORNEY

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COUNSEL FOR THE DEFENDANT

**REPORTED AND TRANSCRIBED BY:**
MARLENE R. ENDERS
CERTIFIED DIGITAL COURT REPORTER
BOSSIER PARISH COURTHOUSE
P. O. BOX 310
BENTON, LOUISIANA 71006

**TUESDAY, JULY 12, 2011**

**MOTION FOR DISCOVERY AND MOTION TO QUASH SUBPOENAS**

THE COURT:

Mr. Marvin, are you ready?

MR. MARVIN:

Yes, sir, we're ready.

THE COURT:

All right, Mr. English, are you ready?

MR. ENGLISH:

I'm ready -- we're ready, Your Honor.

THE COURT:

All right.

COURT REPORTER:

Your Honor, I need the case too, please.

THE COURT:

And, Mr. McCoy, if you'll rise and state your name for the record, please.

MR. MCCOY:

My name is Robert McCoy, I stay at --

THE COURT:

And your address, please?

MR. MCCOY:

-- 7323 Altus Loop, Shreveport, Louisiana, sir.

THE COURT:

All right, thank you, sir.

MR. MARVIN:

Your Honor, this is docket number one-six-three-five-seven-two (163,752). There are two motions that I believe are set for today. One is a motion to quash some proper person subpoenas filed by Mr. McCoy and the other is a motion -- the state's motion for discovery that required a response by the defense -- I would -- I would ask that we take the discovery motion up first. I understand Mr. English is just going to respond to that on the record and I think that's all that's required.

MR. ENGLISH:

Your Honor, I received a motion from the state on producing any alibi. We have no alibi evidence in this case, Your Honor, to respond to the state with.

THE COURT:

All right.

MR. MARVIN:

And that's sufficient for our motion, Your Honor. And the next motion is the motion to quash proper person subpoenas. Your Honor, Mr. McCoy requested -- I don't remember exactly the number, several subpoenas that in our opinion would be simply meant to either delay or harass the people sought to be subpoenaed. There was a judge, an FBI agent, I think there was a justice of the peace, we have no intention of calling any of those people for any reason for the state. And we would just submit -- and also the clerk of court here had responded to Mr. McCoy that -- that his requests were not in proper form, some of them didn't contain proper addresses, and things like that. And the Federal Bureau of Investigation responded to Mr. McCoy with a courtesy copy of the letter to me that he did not follow proper procedures before attempting to subpoena an FBI agent. But for all those reasons -- and in addition, Your Honor, we think that the -- I know that this is a death penalty case, but there is a limit on the number of trial subpoenas that -- that should -- normally issue in a case. And with his request for these proper person subpoenas would put him — would put his attorney's ability to subpoena witnesses at jeopardy. Because it would exceed the number allowed by the code of criminal procedure. So we would ask to quash those proper person subpoenas.

THE COURT:

Mr. English?

MR. ENGLISH:

Your Honor, I do not adopt any of the subpoenas that Mr. McCoy has filed. He has done that against my advice. As I have stated numerous times, Your Honor,

it is my opinion that Mr. McCoy lacks the mental capacity to even help me defend himself in this case. I believe that Mr. McCoy is insane even though the doctors have found him to be legally sane. I believe that Mr. McCoy is insane; he is incapable of helping me to defend him in this case. He continues to take actions, Your Honor, that I believe will under mind my ability to save his life. I would also put on the record that there was a potential opportunity for Mr. McCoy to plead in this case and the state would not impose the death penalty upon him. He has rejected that outright. I am at the point, Your Honor, of — it is that I have a client that believes that I'm in conspiracy with you, the district attorney, the FBI, the Bossier Parish Sheriff's Department, the Caddo Parish Sheriff's Department, and the United States Government, Your Honor, to convict him. I do not adopt these — I do not adopt these motions. I do not believe that my client is capable of helping me defend his life and I believe that all the actions that he is attempting to take here, Your Honor, will only under mind my ability to save his life. And further move him more quickly to the death penalty.

MR. MCCOY:

Well, Your Honor, I would like to speak as well.

Your Honor.

THE COURT:

Mr. McCoy, before you speak and Mr. —

MR. ENGLISH:

May I state one more thing, Your Honor?

THE COURT:

Yes, sir.

MR. ENGLISH:

I'm going to advise Mr. McCoy not to speak in this courtroom as I have — that his — he — he — he will divulge attorney/client privilege and any statements that he makes here will further hamper my ability to defend him and will only quicken his trip to the death chamber, Your Honor.

THE COURT: Mr. McCoy, before you speak —

MR. MCCOY:

Yes, sir.

THE COURT:

I'm going to advise you that you've retained an account — retained counsel number one, number two, you have stated on the record several different times that you wish to have Mr. English as your counsel. You have understood that he is not death penalty qualified. You have understood all of that but you have maintained that he is your counsel.

MR. MCCOY:

Yes, sir, I have.

THE COURT:

You have — Mr. McCoy, you have the right to remain silent. Anything that you say can and will be used against you in a court of law.

MR. MCCOY:

Yes, sir.

THE COURT:

You understand that these proceedings are being recorded.

MR. MCCOY:

Yes, sir, I do know.

THE COURT:

You do have counsel; the counsel has advised you to remain silent at this time. You do not have to make any statement and I want you to understand that these are being recorded and anything that is said will be used against you potentially by the prosecutor's office. Now if you wish to make a statement, sir, I cannot stop you from making that statement but I am strongly, strongly urging you not to make any statements on the record, sir.

MR. MCCOY:

Thank you, Your Honor.

THE COURT:

All right, sir.

MR. MCCOY:

Your Honor, I would like to present to the Court today that I have subpoenaed those witnesses in proper form through the Clerk of Court office with proper addresses, with proper addresses from the Clerk of Court office, and the D.A. feels as if these witnesses will not be productive for me due to the fact that they have probable interest in this case. In order to have a probable defense for myself, Your Honor, I have to have my vindicated witnesses that I need to validate my defense. That will be just like putting someone before an arsenal with anything — with anything to represent themselves. And also, I've talked with Mr. English about a lot of matters, Your Honor. They do not want me to present a defense, Your Honor, when I have a defense to be presented onto. Also, the FBI had wrote

me a letter as well. I subpoenaed FBI Agent, J.T. Coleman about some issues that has very much trust worthy clearance to deal with these proceedings around here. And Mr. Schuyler Marvin tried to under mind me; I have the letter here. By writing them they told me to write them an official affidavit to validate and quote the status of which I needed this FBI agent. And Mr. English just got up and quoted some stuff that was never said about me. See I just spoke with Mr. English a while ago. Mr. English is trying to really under mind a lot of stuff, Your Honor. I had to go find proper paperwork about a lot of this stuff myself, Your Honor. Mr. English has not been in proper communication with me. Yes, he's an attorney for me but Mr. English is not doing the proper protocol in which he should do to properly represent his attorney — I mean his client. There's a zeal that an attorney is supposed to have for his client and that zeal is not being met here. He can get up and tell you there's a conspirer against everything, no it's not. I'm going to maintain my innocence, Your Honor. I'm going to maintain the witnesses that properly subpoenaed. And I'm going to maintain that I am going to trial, Your Honor. There's nothing that Mr. English nor Mr. Schuyler Marvin can do to try and vindicate me. I've got a right to face my accusers, Judge Cox. And that is — that's what I'm going to do.

THE COURT:

All right, Mr. McCoy, nobody is trying to keep you from going to trial, sir. As far as the witnesses —

MR. MARVIN:

Your Honor, we would like to just — as far as it involves the one particular FBI agent just to offer into the record the letter that Mr. McCoy received from the Department of Justice that tells him how to go about

subpoenaing a federal agent. I'd like to just submit the original; I'll get a copy back for my file later.

THE COURT:

Any objections?

MR. ENGLISH:

No objections, Your Honor.

THE COURT:

All right, with no objection that offering will be received into evidence. Do you want me to mark this as State's One, Mr. Marvin –

MR. MARVIN:

That's fine, Your Honor.

THE COURT:

— for identification for this proceeding?

**(STATE'S EXHIBIT ONE RECEIVED INTO EVIDENCE)**

MR. MARVIN:

And as far as the other requests, I do understand, I think, what Mr. McCoy is attempting to do but the number of people that he has subpoenaed and the relevance that I can just only imagine that they could offer to this proceeding is zero. I don't — I cannot see — and — and — if he has corrected his request to the clerk's office he may very well have done that but I don't have any proof of that. And that's okay too but when it comes time for him to present a defense, I would just ask the Court to revisit this issue and make sure on the record that if there is someone that he thinks should be here in his defense, I know I cant force him to divulge

that at this time but I cannot see what in the world some of these people can offer to this case.

MR. MCCOY:

And you —

MR. MARVIN:

But they're going to have to be addressed at some point because he —

MR. ENGLISH:

May I respond, Your Honor?

THE COURT:

Yes, sir, Mr. English.

MR. ENGLISH:

Your Honor, let me restate for the record again, as long as I am the counsel of record in this case I have an ethical duty to Mr. McCoy that goes beyond whether or not to follow Mr. McCoy's advice. I have no ethical duty as a lawyer to hold Mr. McCoy's hand while he walks into the death chamber.

MR. MCCOY:

And you —

MR. ENGLISH:

I have an ethical duty, Your Honor, to try to defend him and do the most best I can to save his life. I will not call those witnesses if they are subpoenaed. Those witnesses if they're put on the stand would only under mind my ability to save Mr. McCoy's life. We're not talking about jail time here. We're talking about Mr. McCoy's life. I cannot — I cannot ascend to the Court and tell the Court whether or not to — to — to grant the state's motion or not, that's up to the Court. But I

will not call those witnesses. If those witnesses are called they will under mind my ability to save Mr. McCoy's life in this case. I do not believe that Mr. McCoy has the mental capacity to assist himself to — to insist on going down this path, Your Honor, is reckless. It is against my advice and it would only quicken his trip to the death chamber.

MR. MCCOY:

Well, Your Honor, what is reckless, Your Honor, is my attorney —

THE COURT:

Mr. McCoy —

MR. MCCOY:

— not subpoenaing anybody, Your Honor. That's reckless, Your Honor. And the state has no productivity of the process of my defense, Your Honor. So he's saying what's relevant is not irrelevant. It's most of all — yes, it's not irrelevant to him, Your Honor, because he's not subpoenaing them. He's not the one that's being prosecuted here.

THE COURT:

All right, Mr. McCoy, I'm going to stop you at this point. I understand your position; I'm not trying to do anything but protect your rights, sir.

MR. MCCOY:

Thank you, sir.

THE COURT:

And I'm -- I'm -- listened –

MR. MCCOY:

Thank you.

THE COURT:

I will revisit this issue but there is the issue of whether or not that you have properly subpoenaed these people. I do quash the FBI's subpoena because it has not been properly done as shown by the letter. If you do it properly according to the -- Mr. McCoy, I'm making my ruling, according to the letter that has been stated by the FBI Agent, J.T. Coleman, has not been done properly, it is quashed under federal statutes --

MR. MCCOY:

No, it's not, Your Honor.

THE COURT:

Mr. McCoy, I'm making my --

MR. MCCOY:

I have a copy of it --

THE COURT:

Mr. McCoy, I'm making my ruling, you will not interrupt me while I make my ruling.

MR. MCCOY:

Your Honor, that's --

THE COURT:

You can --

MR. MCCOY:

-- that's --

THE COURT:

-- you can disagree with me --

MR. MCCOY:

-- undermining my defense, Your Honor.

MR. ENGLISH:

Robert, I suggest you be quiet, the Judge is speaking.

MR. MCCOY:

I understand but that's —

MR. ENGLISH:

You have to allow the Judge to speak.

MR. MCCOY:

That's undermining my defense, Your Honor.

MR. ENGLISH:

Let the -- let the Judge make his ruling and you can object to it.

MR. MCCOY:

On —

MR. ENGLISH:

Let the Judge make his ruling.

THE COURT:

Under the federal statutes --

MR. MCCOY:

The federal agents have to rule on that, Your Honor. And, you know, they've given me adequate amount of time to present that motion, Your Honor.

THE COURT:

Mr. McCoy, the subpoena to the FBI is quashed. If you re-subpoena them under the statute --

MR. MCCOY:

I've already done it, Your Honor.

THE COURT:

Well, if you've done that and it's properly done --

MR. MCCOY:

And it's properly; that's what I'm fixing to tell you you're fixing to quash a subpoena that's already properly vindicated.

THE COURT:

Mr. McCoy, if you interrupt me again, I am going to have you gagged. Do you understand me? So you can talk to me one at a time. We have to record this, I will be very respectful of your time; you're going to be very respectful of mine. All right? If you have re-subpoena them under the proper procedure then you are entitled to do that according to what this letter states. But under the prior subpoena power that you used you did not properly do that. Therefore, it is quashed under the prior subpoena power that you tried to use. If you have re-subpoenaed them and done it in the proper manner then I will look at that at the trial to see if it's been done properly. I will revisit these subpoenas. If they have not been served properly then you have not done it affectively and properly. But I will look at that at the trial. That will be a discussion that you and Mr. English will have to have. I will reserve my right to quash any subpoenas at that time if they have not been given the properly notification. So that is my ruling. You can object to my ruling if you wish to do so. All right, now you can talk if you wish to do so.

MR. MCCOY:

Thank -- thank you, Your Honor. I've also addressed, Your Honor, through your clerk of court office; they have sent me the proper notification on addresses in the proper venue and how to subpoena all my wit-

nesses. And I have a Sixth Amendment right to subpoena my witnesses in the processes in which the D.A. have, I should have the same power that vindicates me by the United States Constitution to subpoena my witnesses

THE COURT:

Mr. --

MR. MCCOY:

And that's the same aspects that I use, Your Honor to unjustly quash the subpoenas from my defense, Your Honor, will be putting me on a direct path to a death penalty aspect, Your Honor.

THE COURT:

Mr. -- Mr. McCoy, I have not stopped you from subpoenaing. I just said, I would look at it to see if the witnesses have been properly subpoenaed at the time. I have not quashed any of your subpoenas.

MR. MCCOY:

But I've subpoenaed it through the aspects of the clerk of court —

THE COURT:

All right.

MR. MCCOY:

— and I have the validation of the records from which the clerk of court has given me.

THE COURT:

I reserve the right -- I reserve the right, Mr. McCoy, to look at everything at the trial to see if it was properly done. Okay?

MR. MCCOY:

Yes, sir.

THE COURT:

So that's what I'm doing.

MR. MCCOY:

Yes, sir.

THE COURT:

So that -- I'm making a reservation of right.

MR. MARVIN:

That's acceptable to the state, Your Honor, and I think that's the only two matters on the docket except for the jury excuses that the Court indicated that it might --

THE COURT:

Yes, sir, I have to go through these jury excuses.

MR. ENGLISH:

That's -- that's -- Your Honor, can I make one more statement before --

THE COURT:

Yes, sir.

MR. ENGLISH:

-- quickly before we start. I think I have to be clear on the record because it's not in dispute that I am not death penalty qualified in this case. But I'm the best Mr. McCoy has. Rather it me than him representing himself. But I want to place on the record, Your Honor, that there has been an opportunity to allow Mr.

McCoy to plea and not face the death penalty and he has openly rejected that against my advice.

THE COURT:

All right.

MR. ENGLISH:

And I want to put that on the record, Your Honor.

THE COURT:

All right, then that has been placed on the record at this time. And I will go through the jury excuses.

MR. MARVIN:

Your Honor, this is a jury excuse, I have already

* * *

**EXCERPTS OF JULY 26, 2011 TRANSCRIPT RE MOTION HEARING**

* * *

**TUESDAY, JULY 26, 2011**

**MOTION HEARING**

THE COURT:

Good morning.

MR. ENGLISH:

Good morning, Your Honor.

THE COURT:

Good morning.

MR. MARVIN:

Good morning, Judge.

THE COURT:

Good morning, Mr. Marvin. All right, Mr. Marvin; Mr. English. Mr. English?

MR. ENGLISH:

Your Honor, I'm present with my client, Mr. Robert McCoy.

THE COURT:

Yes, sir.

MR. ENGLISH:

I asked for a hearing today, Your Honor, because I was informed by Mr. McCoy this weekend that it was his intention to terminate my services.

THE COURT:

Yes, sir.

MR. ENGLISH:

And so, I would turn it over to Mr. McCoy, Your Honor.

THE COURT:

All right, Mr. Marvin?

MR. MCCOY:

Good afternoon, Your Honor. My name is Robert McCoy; I stay in Shreveport, Louisiana at 7323 Altus Loop. Your Honor, we come here today, Your Honor, to petition the Court to terminate my counsel. And we're terminating Mr. English on the aspects of deficiency in counsel. Mr. English has misled my family in numerous amounts of ways. Mr. English has not properly defended me in any aspects of the case. Mr. English has not investigated anything in any matters in this case, Your Honor. I had to get my mom to go on the internet and get information from Idaho Court aspects showing that I never possessed a weapon. I never had a weapon. And as of three years ago statute has been presented in the Court and I would like to present that on the record today. Also to let the Court know and have it on judicial documents that this has been disposed of three years ago proving that I never had a weapon in the Idaho Court through magistrate -- magistrate up there. And this is something that is very relevant to this Court proceeding. And also, Your Honor, I want to present that Mr. English called Ms. Sandra Black, you remember on the twelfth Mr. English made a statement that I didn't have a defense alibi? Mr. English wrote and called Ms. Sandra and told Ms. San-

dra everything up under the sun about this criminal aspect that I had -- had got caught with a gun --

THE COURT:

Mr. McCoy, and let me just stop you again right now. I know that I have warned you a hundred times about Miranda.

MR. MCCOY:

Yes, sir. Yes, sir.

THE COURT:

And you know Miranda probably better than anybody at this time because I have tried to protect your rights in every way that I can, sir.

MR. MCCOY:

Yes, sir.

THE COURT:

And you understand again, that you are stating things are the record that are being recorded. You understand that you have a right to an attorney; you are presented by an attorney. You have the right not to state anything in this courtroom, sir. And you understand that you have the right to remain silent on all of these things. And anything that you tell this Court is being recorded at the present time and can and probably will be used against you at your trial. You understand all of that, sir?

MR. MCCOY:

Yes, sir, Judge Cox, I fully understand it.

THE COURT:

I -- I have to advise you of those rights, Mr. McCoy, because I think that you are stating things on the rec-

ord that you don't need to state. I do try to listen to you, sir, and I -- but I'm trying to protect your rights in every way that I can, Mr. McCoy. So.

MR. MCCOY:

Thank you, Judge Cox.

THE COURT:

All right.

MR. MCCOY:

May I proceed?

THE COURT:

Yes, sir, you may proceed at your own risk, sir.

MR. MCCOY:

Thank you, Your Honor. Your Honor, I would like to introduce into the docket the two case histories in Nez Perce (phonetics) County, Idaho that validates that on 5-13-2008, Providing False Information and Illegal Weapon Carried all was dismissed at that time. And they did a probable hearing up there and it was all dismissed and I would like to, if they bailiff is here, to introduce this into record with you, Your Honor. And it also vindicated and validate that on 5-13-2008, twenty-two hundred hours after eight o'clock the -- the sheriff's office up there released documented information to Mr. Joey Cleveland and the incentive detective's desk was up there and -- after eight o'clock that morning evidence was dismissed. And they'd given him evidence that was dismissed in another state at twenty-two hundred hours, that's ten o'clock at night, Your Honor. And there is a proceeding to everything and I would like to introduce this into record, please.

THE COURT:

Mr. McCoy, I don't know if that is properly before the Court at this time. Mr. Marvin?

MR. MARVIN:

I don't even understand the relevance of that, but --

MR. MCCOY:

It -- it's very relevant, Your honor.

THE COURT:

Mr. McCoy --

MR. MARVIN:

He can present that at trial if he thinks it's relevant in his defense and we may or may not have an objection at that time, but I don't

THE COURT:

Mr. McCoy --

MR. MARVIN:

The purpose of whether or not Mr. English is going to be his lawyer from hereafter --

MR. MCCOY:

No, he's not, Your Honor.

THE COURT:

Mr. McCoy, that's my determination at this point.

MR. MCCOY:

Well with me -- with me paying -- paying for Mr. --

THE COURT:

Mr. McCoy? Mr. McCoy?

MR. MCCOY:

Yes, sir.

THE COURT:

Now, I'm going to be real respectful of you.

MR. MCCOY:

I understand, Your Honor.

THE COURT:

I'm going to be real respectful of you. You're going to be real respectful of me.

MR. MCCOY:

Yes, sir.

THE COURT:

And Mr. Marvin – is -- he goes along and he is respectful to the bench. Mr. English is respectful to the bench.

MR. MCCOY:

Yes, sir.

THE COURT:

We can't talk over each other.

MR. MCCOY:

Yes, sir,

THE COURT:

Because I'm trying to record these proceedings.

MR. MCCOY:

Yes, sir.

THE COURT:

So we're going to be respectful to each other.

MR. MCCOY:

Yes, sir.

THE COURT:

All right. There are determinations that I get to make, all right, sir? I'm letting you make your argument and I'm listening. All right? So, I'm going to rule those are irrelevant. You can present those at trial, Mr. McCoy, if you want to present those as part of your defense but they are not properly before the Court as far as counsel is concerned. You can make the statements regarding those issues but I'm not allowing those to be placed in the record at this time just because they are not relevant to this proceeding, all right, sir? I'm allowing you to save those for trial is what I'm doing. All right. All right, now, you may proceed with any other statements.

MR. MCCOY:

Yes, sir. Your Honor, as I was speaking of my defense alibi, as Mr. English spoke of on the twelfth of this month. Mr. English called my defense alibi, he wrote my defense alibi and told her everything up under the sun, Mr. -- Judge Cox, and that is not validate. He told her I was caught with a weapon. I also have some disciplinary aspect on Mr. English that I turned him into the disciplinary board twice for not doing his, you know, relevant aspects in my case. Mr. English has been on my case for over a year and a half, Your Honor. Mr. English has not done anything relevant to my case. Mr. English has also talked to my parents, them in the back, trying to make them make me cop out to three counts of first degree murder. Didn't want me to go to trial. I consistently told Mr. English we're getting new counsel, Your Honor, we have new counsel on standby

right now to replace Mr. English because this is my life, Your Honor, and to vindicate and keep Mr. English on my case when I know Mr. English is not working in my favor, Your Honor. We will an aspect to put me in the death chambers, Your Honor. I need somebody that's going to work for me, not somebody that's going to vindicate and work for the prosecutor, Your Honor. I need, in this aspect; I need help like any individual in any aspect, Your Honor, that needs help. This is a very vital time in my life, Your Honor, and I need help. I don't need somebody that's working against me, Your Honor. And he's worked against me every step of the way. I respect Mr. English to the fullest but Mr. English has an obligation to represent the guilty as well as the innocent, Your Honor. And Mr. English has not step forward to any of those obligations, Your Honor. Mr. English just showed me the dash cam video that I wrote you and petition the Court for over two years now, sir, and I just seen it Saturday. And Mr. English is steady trying to make me be the person in there when you can't even see the person in the dash cam video. That's what I'm talking about, Your Honor.

MR. ENGLISH:

Your Honor, I'm -- Your Honor -- Your Honor, I'm going -- while I'm still Mr. McCoy's counsel, Your Honor, I'm going to again strongly advise Mr. McCoy that he not discuss conversations between me and him in an open courtroom.

THE COURT:

All right. Mr. McCoy, you stated -- you stated that you have a counsel on standby, is that counsel -- who is that counsel, please?

MR. MCCOY:

My mom and dad has gotten with Mr. Artis Cash, he has two counsels on standby, they said they will enroll as soon as Mr. English is taken out of my case.

THE COURT:

Are they prepared to proceed to trial on Thursday?

MR. MCCOY:

Yes, sir. My mom and dad confirmed it last night and they talked with -- they're ready to -- to proceed in trial on -- once Mr. English is dismissed they're ready to proceed on trial. There will be no del -- no delays.

THE COURT:

They are not here today, Mr. McCoy?

MR. MCCOY:

Not -- no, sir.

THE COURT:

All right, thank you, sir. Anything else you want to state on Mr. -- anything else you want to state to the Court, sir?

MR. MCCOY:

No, sir, other than introducing the disciplinary records at the disciplinary board that I'd presented against Mr. English as well.

THE COURT:

Mr. McCoy, I understand that you've filed a disciplinary proceeding. I understand but that's not -- that is not anything that this Court handles. So I'm just letting you know that --

MR. MCCOY:

But --

THE COURT:

-- ahead of time. I understand and I take you at your word that you've filed a disciplinary proceeding, sir. All right. So I take that into consideration. All right, Mr. English?

MR. ENGLISH:

Your Honor, I mean, if this Court is going to honor his request and let me out of this case, I mean, we have an irrevocable disagreement between how to proceed in this case. If -- if I'm out of this case I ask to be out of the case, that's what I ask for, okay? It's -- it's August and it's hot and I've been here a month now and got a whole other month clear but I have no problem, Your Honor, turning over everything if Mr. McCoy has secured counsel. And if the Court determines that Mr. McCoy has secured counsel I would ask to be relieved out of this case. Mr. McCoy and I have an irrevocable -- he will not talk to me anymore. He's not communicating to me anymore. And, you know, I've never encountered this situation in my twenty years of practicing law but it is what it is. So if the Court is going to honor his request and let me out of this case then I would like to be out of the case, Your Honor.

THE COURT:

All right. Mr. Marvin?

MR. MARVIN:

Well it doesn't work like that.

MR. MCCOY:

Huh?

MR. MARVIN:

You've got to have lawyers here saying, I hereby enroll as counsel then you let him out. I don't know even know who these two people are that he supposedly has. They're mystery lawyers. Nobody knows their names. Nobody has mentioned their names. So they're not here. We start trial the day after tomorrow. I don't know if they're ready. I don't know if they would show up here this afternoon or tomorrow or Thursday and say, I need a continuance. You know, or I need this or the D.A. hasn't given me that. I mean, there are all kinds of things that could happen. But they're not here and if they're here and they say they're ready for trial then we wouldn't be arguing much about any of this. He's free to hire whoever he wants but he's got to hire them and they've got to be -- they're got to step up. So, I mean, I don't think it's proper at all to let Mr. English out, I under -- I understand his predict -- predicament and I'm sympathetic to it but the lawyer has got to be here.

THE COURT:

Okay. Any other argument, Mr. English?

MR. ENGLISH:

None, Your Honor.

THE COURT:

All right, Mr. McCoy, I'll let you have one last bite at the apple.

MR. MCCOY:

Yes, sir, thank you, Your Honor. In --

THE COURT:

And that's with the caution that I've already warned you about Miranda, sir.

MR. MCCOY:

Yes, sir. I just want to bring back to the Court's remembrance when I dismissed Ms. Pam Smart. I didn't have a standby lawyer here then, Your Honor. And when I spoke to you about Mr. English enrolling he enrolled in the same and proper fashion in which, you know, I told you he would enroll, Your Honor. I was creditable of my word. I was creditable of the things that I spoke to you about in that aspect, Your Honor. And I'm still creditable about this aspect. These attorneys have -- are very familiar with this case. They have been standing by and vindicating things with the case; they are very familiar with this case, Your Honor. That's why they're not going to need any continuance hiring for this case; they're very familiar with it.

THE COURT:

All right, thank you, Mr. McCoy. Mr. McCoy, in anticipation of this motion and in looking up the law in this motion, I've looked at the Supreme Court case of State of Louisiana versus Roy Bridgewater that is cited at 823 So. 2d 877 is a Louisiana Supreme Court case that was decided by the Louisiana Supreme Court, June 21, 2002. Mr. McCoy, there have been times that you have been represented by the Public Defender's Office. There was a time that you had attempted to represent -- potentially had talked about representing yourself. There has -- you have been represented by Mr. English. And the case stands for the right -- you do have the right to choose counsel but that counsel cannot be chosen when it is an attempt to obstruct the Court's orderly procedure or to interfere with a fair administration of justice. And it states that (quoted as read) "In order for the defendant to exercise his right to counsel he must exercise his right to counsel of his

choice at a reasonable time, in a reasonable manner, and at an appropriate stage of the proceedings." This matter has been set since February. This matter has been under scheduling order at least two different times. The case was continued by the Louisiana Second Circuit Court of Appeal in February and was continued to this term, which I specifically set aside in order to be able to have this hearing. We are two days before the hearing date. Your counsel, these two gentlemen or ladies or these two attorneys that you state are going to represent you are not in this courtroom at this time. They have not come before this Court and asked to enroll in this case. Even if they were to enroll there would have to be assurances that they were prepared to go to trial on Thursday. So based on the fact that this is not a timely request and this Court also takes into consideration that even if there are irreconcilable differences between counsel and the person that is accused of a crime that the Court said that (quoted as read) "A right to counsel choice must be made in a timely manner. It must be the choice at a reasonable time, and a reasonable manner, and an at appropriate stage of the proceedings." This is not an appropriate stage of the proceedings. There is no counsel that is present today to state that they would enroll. And therefore, I deny Mr. English being relieved at this time and he will remain as counsel of record and this case will go to trial on Thursday.

MR. MARVIN:

Thank you, Your Honor.

THE COURT:

That is under State versus Bridgewater. I do want to quote that again. That is a Louisiana Supreme Court proceeding, January 15, 2002, 823 So. 2d. 877. Okay.

MR. MARVIN:

Your Honor, there is a motion to quash a subpoena that we filed that I think may have been set for Thursday and we're prepared to take that up, do you have -- are you familiar with what --

THE COURT:

I do have the motions to quash the subpoenas. Mr. English, do you have these motions to quash?

MR. ENGLISH:

He's -- he's showing me a copy, Your Honor.

MR. MARVIN:

That's --

THE COURT:

All right.

MR. MARVIN:

Your Honor, that subpoena was issued to Senator David Vitter a United States Senator and served on his office in Shreveport, it was not personally served on him. We set forth a memorandum and other reasons why the subpoena should be quashed. We were contacted by a staff attorney for the United States Senate last -- week before last and his only request was that this be done at the earliest possible time that the Court rule on it. So we've like to take that up and argue it for those reasons set forth in our motion and the memorandum. To our knowledge Senator David Vitter has absolutely no knowledge of Mr. McCoy personally or of this incident. And for those reasons set forth in both our motion and the letter from the senate attorneys that that subpoena be quashed so that I can notify the senator's office of the Court's disposition of this matter.

THE COURT:

Mr. English?

MR. ENGLISH:

I don't object, Your Honor.

THE COURT:

Sir?

MR. ENGLISH:

I do not object.

THE COURT:

All right. Mr. McCoy, --

MR. ENGLISH:

Your -- Your Honor, Your Honor, may I say -- may I -- may I make a statement?

THE COURT:

Yes, sir.

MR. ENGLISH:

Your Honor, I'm going to -- we're now two days away from the beginning of a capital murder trial. I can't represent Mr. McCoy -- I have -- I'm the lawyer at this table and my word has to be the word, Your Honor. I cannot represent Mr. McCoy if the Court allows Mr. McCoy to continually intervene and make statements on this case.

THE COURT:

And, Mr. English, I was fixing to address that at this time.

MR. ENGLISH:

Thank you.

THE COURT:

Mr. McCoy, the Court has determined that Mr. English is your attorney and from today's proceedings forward I've allowed you to talk before this courtroom. From this day forward, and I've given you your Miranda a hundred times, I know that. And I -- I know I've given it numerous times, let me just put it that way. From this day forward since the Court has determined that Mr. English is your attorney, Mr. English will do the speaking to the Court. You will not be allowed except through Mr. English to address the Court from this day forward. Based on the fact that he is representing you and has been determined to be your attorney. You may write him notes. You may discuss this with him at the table. You may make your opinion known to Mr. English. But he has been determined to be your attorney at this point. We are fixing to be starting a trial and this is in order to protect your rights to the best of my ability. So I'm letting you know why I'm doing this but Mr. English has been determined to be counsel of record at this time, sir. So Mr. McCoy, I will let you speak, briefly.

MR. MCCOY:

Thank you.

THE COURT:

But I want you to acknowledge that you understand what I'm saying to you.

MR. MCCOY:

Yes, sir.

THE COURT:

Because I am trying -- sir, I am doing everything in my power. Everything in my power to make sure --

MR. ENGLISH:

Your Honor, I'm going to object any further to allow Mr. McCoy to make any future statements without conferring to me.

THE COURT:

All right.

MR. ENGLISH:

Given the sensitivity of this case.

MR. MCCOY:

Through Ache versus Oklahoma, Your Honor, I have the right to speak, I have a right to represent myself through Ache versus Oklahoma, Your Honor, and too --

THE COURT:

Not at this time, Mr. McCoy, the State versus Bridgewater states that you have unequivocally given up that right because you're not making that right at the present -- you have not made that known to the Court unequivocally before this date. So I will instruct you to speak through Mr. English at this time and we're going to start that Mr. English is your attorney and he will be representing you. Mr. McCoy, I have done everything I can and I am stopping you at this time and allowing Mr. English to represent you. Mr. English, you have no objection to this subpoena being quashed, is that correct?

MR. ENGLISH:

No -- no, Your Know.

**(MR. ENGLISH CONFERNING WITH MR. MCCOY OFF RECORD)**

MR. ENGLISH:

Your Honor, I have conferred with my client, my client has indicated to me that the State Senator David Vitter knows everything about this case. That he has been involved on the case. That he knows everything about the conspiracy in this case to frame Mr. McCoy and Mr. McCoy believes that State Senator -- I mean, U.S. Senator David Vitter is a key witness in his case. I have no evidence to substantiate that but I'm simply reciting to you what Mr. McCoy has asked me to recite to you, Your Honor.

THE COURT:

All right, thank you. Mr. Marvin, any response?

MR. MARVIN:

Your Honor, if the state is willing to allow Mr. McCoy to recited whatever information he believes Senator Vitter knows able this case and any conspiracy involving this case, and the Court can review that in camera. But without specific information what Senator David Vitter knows about this case we believe the subpoena should be quashed. This is merely to harass the Senator and make some kind of vague allegations about a conspiracy and we just believe that his argument is not enough.

THE COURT:

Mr. English, any final statement, sir?

MR. ENGLISH:

Your Honor, I think at this time, Your Honor, I'm going to ask for an ex parte hearing with this Court. To

put something on the record outside of the defense -- I mean, outside of the prosecutor. I think it's going to go to the core of this case moving forward and I believe I need to make a record, Your Honor.

MR. MARVIN:

Regarding this issuance of the subpoena to —

MR. ENGLISH:

No -- no, not the issuance, Your Honor. Not this issuance. I -- I -- I have no more statements about State Senator Vitter so I'm going to let the Court rule and then I'll make a —

MR. MARVIN:

Okay, well --

MR. ENGLISH:

I'll -- I'll withdraw that, okay? I have no more statements about U.S. Senator David Vitter, Your Honor.

THE COURT:

All right.

MR. MARVIN:

The -- the proper procedures were not followed to -- to subpoena in session and for that reason alone we move to quash the subpoena.

THE COURT:

I do -- I do hereby quash the subpoena as proper procedure was not followed. Mr. McCoy -- Mr. McCoy -- Mr. English, proper procedure was not followed to issue these subpoenas. The subpoena has to be issued under a proper method. That is something that I discussed the other day about the FBI agent. It was not

properly served, I therefore, quash the subpoena as it was not properly served on a sitting United States Senator while he is in session. So that subpoena is quashed.

MR. MARVIN:

Thank you, Your Honor.

THE COURT:

All right, do you have any other motions, Mr. Marvin?

MR. MARVIN:

No, sir, Your Honor.

THE COURT:

All right.

MR. ENGLISH:

Your Honor, at this time I'm going to ask for an ex parte hearing with the Court to discuss my representation with Mr. McCoy. I don't intend that it will take a long time but I think I -- I would like to build a record and then, Your Honor, I'm going to ask that it be sealed.

THE COURT:

Mr. English, that is a -- unusual request and I believe that the district attorney is normally entitled to be in those proceedings. Do you have any authority for your -

MR. ENGLISH:

That's -- that's -- that, Your Honor, that's fine, I put it on the record so now let me -- let me state, Your Honor, and I'm assuming that the Court is turning that down. Your Honor, Mr. McCoy is insistent that I put

forward a defense in this case at the guilt phase of this trial. I have made a determination, Your Honor, that the evidence in this case is so overwhelming against Mr. McCoy that in order to do that --

THE COURT:

Mr. English, I -- I'm not going to interrupt you, sir, I mean, I hate to interrupt you.

MR. ENGLISH:

Okay.

THE COURT:

And I'm -

MR. ENGLISH:

That's why I asked for an ex parte hearing, Your Honor.

THE COURT:

Yes, sir, and I mean, I understand what you stated. I think that you've stated this on the record prior to this date.

MR. ENGLISH:

Okay.

THE COURT:

I believe that -- you are the attorney, sir.

MR. ENGLISH:

That's fine, Your Honor.

THE COURT:

And you have to make the trial decision of what you're going to proceed with --

MR. ENGLISH:

That's fine, Your Honor.

THE COURT:

-- and how you're going to proceed, so.

MR. ENGLISH:

That's fine.

MR. MARVIN:

That's all we have for today, Your Honor.

MR. ENGLISH:

Your Honor, we -- I've -- I have been presented with exhibits that the state intends to introduce and some of these exhibits are crime scene photos and I think we already -- now -- Mr. Marvin and I agree that now is a good time to take this up because I have some objection to some of these photos. I believe that they are unnecessary; I believe they are prejudicial. And I believe that -- that they -- they have no value other than to inflame the jury. And I would like to take up some of these photos, Your Honor.

THE COURT:

Is that agreeable, Mr. Marvin?

MR. MARVIN:

That's fine, Your Honor.

THE COURT:

And, Mr. Marvin and Mr. English, before you leave today, I do have jury excuses that I need to go over to make sure that they're on the record. It will help us be able to proceed on Thursday morning more expeditiously.

MR. ENGLISH:

That's fine, Your Honor.

**(MR. MARVIN AND MR. ENGLISH CONFERING WITH THE CLERK)**

THE COURT:

Mr. English, are you ready to proceed?

MR. ENGLISH:

Your Honor, just give me two seconds.

THE COURT:

Yes, sir.

* * *

[THE COURT:]

looking at me and then she starts throwing things at me, Mr. English. So, I don't want to get things thrown at me during the trial.

MR. ENGLISH:

That's fine, Your Honor.

THE COURT:

All right, thank you, sir.

MR. MARVIN:

All right, Your Honor, Mr. English has handed me five sets — six sets of photographs that he says he objects to and they are autopsy photographs — two autopsy photographs of Willie Young that show the entry wound to Mr. Young's right' eye. And these are the only two that we would intend to show — offer with regards to Mr. Young's autopsy.

MR. ENGLISH:

Your Honor, the Coroner — may, I — are you — are you — does the Court need to see these pictures, Your Honor?

THE COURT:

Yes, sir, please. All right, sir.

MR. ENGLISH:

Your Honor, again, the Coroner is going to testify as to the crime scene; the cause of death. The state is introducing without my objection the diagram of the autopsy report that specifically shows the entry wounds. Those pictures, Your Honor, have no probative value in their case — this case. Their sole purpose, Your Honor, is to inflame the jury. To allow those photographs to be put in front of the jury, Your Honor, would seriously prejudicial Mr. McCoy's case and I believe, Your Honor, for those reasons they should not

THE COURT:

All right, Mr. Marvin?

MR. MARVIN:

Your Honor, the state's required to prove its case. And these -- and we're required to prove corpus delicti so we — we have to prove that — that the people died. I know that there's no serious dispute as to that but we have to prove it beyond a reasonable doubt. And we intend to call the Coroner — the pathologist, I'm sorry, that conducted the autopsy and let him describe what he found with each one of these victims. And where the bullets went in; if the bullets stayed in the body or where it exited the body. And what the bullet did while it was in the body; what all arteries did it hit. What caused the death of these three individuals. So we're required to prove that. We've picked two photo-

graphs out of numerous photographs taken of the autopsy. With regards to Mr. Young — I mean, I know he's going to argue all of its prejudicial, that's why I'm offering them. But we're required to prove cause of death and that's within our burden of proof and we're entitled to present our case and — and autopsy photographs are always and somewhat prejudicial and many times inflammatory. And I know he's concerned that there's a bullet hole in Mr. Young's right eyelid. And he wished it was somewhere else but its not. He was shot in the right eyelid so I can't take a picture of the man's knee and I can't take a picture of the man's toe tag and offer that into evidence. The Coroner has a right to describe what killed Willie Young.

MR. ENGLISH:

Your Honor, I'm prepared to stipulate what killed Willie Young. I'm prepared to stipulate that Willie Young is dead. The Coroner report, Your Honor, lays out specific diagrams, shows entry points, the whole nine yards. Those photographs serve no probative value in this case other than to inflame the jury, Judge.

THE COURT:

All right, Mr. Marvin?

MR. MARVIN:

I — I mean, the stipulation is not acceptable. This is a death penalty case and we're entitled to put on our case as we see fit, so.

THE COURT:

All right. Mr. English, I understand your concerned but this is a — this is a murder trial. I don't find that these are overly — these photographs — and I will — the only way that I can identify these for the record

— it looks like — I need to be able to identify these for the record. It looks like 0001130001 is the number on the bottom of the photographs and there are two photographs. Are these copies, Mr. Marvin? Are these copies?

MR. MARVIN:

That's Mr. English's copies.

MR, ENGLISH:

Those are my copies, Your Honor.

THE COURT:

Those are your copies?

MR. ENGLISH:

Yes, Your Honor.

MR. MARVIN:

We — we were offered that in a form of a power

* * *

because it's not listed on the—

MR. MARVIN:

Down at that bottom.

MS. NOONAN:

It's a crime scene.

MR. MARVIN:

It's a crime scene photograph; that one's up side down. These are all crime scene photos.

MR. ENGLISH:

Who's the victim in here?

MR. MARVIN:

That's Christina. That's Christina. That's Willie. And that's Willie. The first two are of Ms. Young; the second two are —

MR. ENGLISH:

Your Honor, I'm going to introduce what I'm — I'm labeling as D-3, 4, 5 and 6. They are crime scene photos, two are of Mr. Willie Young and the other one is Ms. Colston. I object to the same objection, Your Honor, that I've already stated on the previous photos.

MR. MARVIN:

Your Honor, those are crime scene photographs of two of the victims. We would — actually our first witness in this case would probably be Sergeant Buddy Eagle. He — Sergeant Eagle is the individual that responded to the crime scene and he's going to describe those photographs as being the — accurate depiction of the — the residence as he entered the residence. And a short while later Detective Sage Allen of the Bossier PD actually took those photographs and he would be one of our next witnesses that would identify what's depicted in that photograph as being accurate as what they saw in that residence the night of May the — May the 5th, 2008.

THE COURT:

All right, Mr. English?

MR. ENGLISH:

Your Honor, again, I — the same objection, Your Honor, I believe that those pictures are prejudicial. I don't believe they have any probative value that's in this case. The police officers can describe what was in

the case and I would ask Your Honor that they not be allowed to be presented to the jury.

THE COURT:

I would state that these are not overly prejudicial at this point, Mr. English, and based on their offering at the trial on whether there's any other objection to them at the trial. I would allow them to be presented so I'll overrule that objection to these photographs.

MR. ENGLISH:

Thank you, Your Honor. Your Honor, next we object to which we're going to list as D —

MADAM CLERK:

What are —

THE COURT:

These are D-3 —

MADAM CLERK:

And you're allowing them?

THE COURT:

I will allow them to be presented, yes, ma'am.

MADAM CLERK:

Okay.

THE COURT:

D-3, 4, 5, and 6.

MADAM CLERK:

Does he got them labeled?

THE COURT:

Yes, ma'am, he does on the bot — right there on the top. Okay.

**(EXHIBITS D-3 THROUGH D-6 WILL BE ALLOWED AT TRIAL)**

MR. ENGLISH:

Your Honor, next I'm going to — what I've listed as Defense Exhibit Seven and Eight; they are emergency room pictures of Gregory Colston. They are graphic, they clearly have no probative value in this case other than to inflame the jury. The Court is allowing the crime scene photos. There are crime scene photos showing Gregory Colston lying in a pool of blood. I've not objected to those photos but to allow photos in of Mr. Colston — Mr. — victim in the emergency room, Your Honor, with tubes running out of him and doctor's pointing at him that's clearly probative, has no probative value in this case as to whether or not a crime was committed. The sole purpose of these photos, Your Honor, is to inflame the jury and prejudice them against Mr. McCoy.

THE COURT:

All right, Mr. Marvin?

MR. MARVIN:

Your Honor, we don't really want to try our whole case now and — and describe what our witness is going to testify to but basically what is in the — their report would be Sergeant Eagle when he entered the residence heard a gurgling sound. And he's going to describe that in detail what he heard. It's not going to be good for this man's defense. It's not intended to be for his defense. But Mr. Colston, Gregory, lived a little while and he didn't die a quick death like the other two

did. And the jury's entitled to know what happened in that residence that night. And again, Mr. Colston, we're required to prove the cause of his death. And the Coroner's entitled to describe how and why he survived the time that he did.

MR. ENGLISH:

But showing, Your Honor, Mr. Colston on an operating table with tubes running out of him, removed from the crime scene has no probative value in this case. The D.A. has more than enough evidence, and by the way, Your Honor, again we're prepared to stipulate to all of this evidence. The D.A. has crime scene photos. They have the testimony of police officers.

They have the testimony of the Coroner to allow these photographs to be brought in where the individual has been removed from the crime scene, Your Honor, has absolutely have no value. It doesn't in anyway help the D.A. to prove their case. The medical testimony is what is it. Those photos, Your Honor, clearly prejudicial against my client and should not be allowed in.

THE COURT:

I'll take those — I'm going to take a minute to render a decision on that. I'll pass those for just a minute. Do you have any others, Mr. English?

MR. ENGLISH:

Your Honor, I believe those are all the ones that we have, Your Honor.

THE COURT:

All right.

MR. MARVIN:

You gave me these?

MR. ENGLISH:

Wait, I'm sorry, that has — I'm sorry, I gave you these. Okay, let's go. Yes, I definitely have some more, Your Honor.

MR. MARVIN:

Okay. These are two —

MR. ENGLISH:

I've got them, Your Honor. These are two autopsy photos which we're going to — I believe we're up to D-9 and D-10.

THE COURT:

That is correct, yes, sir.

MR. ENGLISH:

These are autopsy photos of Gregory Colston, Your Honor, again Your Honor, there's crime scene photos in this case. Those pictures are inflammatory, they have no probative value, Your Honor, and they only serve to prejudicial the jury against Mr. McCoy in this case. And those are autopsy photos, Your Honor.

MR. MARVIN:

Well for the same arguments we made earlier these are just three of the autopsy photographs. Each of these individuals have probably fifteen to twenty photographs made of them and I can't help the fact that Mr. McCoy shot the kid between his eyes.

MR. ENGLISH:

I'm going to object to that there's no evidence, Your Honor, that Mr. McCoy at this point shot anybody.

MR. MARVIN:

But that's what the photographs show and that — I understand his argument is made in every single death penalty case that's ever been tried and we — we're — we intend to present our case and carry our burden of proof and this is part of it.

THE COURT:

Mr. English, I will allow these photographs as I do not find them to be overly prejudicial; they will be allowed to be presented with your reservations of objections at the trial, sir.

**(EXHIBITS D-9 AND D-10 WILL BE ALLOWED AT TRIAL)**

MR. ENGLISH:

Your Honor, we're now going to move to what we're going to list as D-11, D-12 and D-13, these are autopsy photos of Ms. Mary Colston. I believe again for the same arguments, Your Honor, they're prejudicial, they have no probative value in this case, and they should be stricken and not allowed to be presented to the jury. Same arguments, Your Honor.

MR. MARVIN:

Your Honor, these are photographs of Christine Colston's autopsy —

MR. ENGLISH:

Same photos.

MR. MARVIN:

That's the same photos, and while the pathologist is testifying regarding her cause of death we think they would enable the jury to visually see the wounds that he's describing and what injury was caused by those

wounds. So for the same arguments that we've already made we believe they're relevant to our case in chief.

THE COURT:

I do not find that these photographs are — are overly prejudicial, I'll allow D-11, 12 and 13 with reservations of rights by the defense.

**(EXHIBITS D-11 THROUGH D-13 WILL BE ALLOWED AT TRIAL)**

MR. MARVIN:

And, Your Honor, with regards to those emergency room photographs that you've taken under advisement, we don't intend to offer those. So I think his objection will be moot; we're going to withdraw those at this time.

THE COURT:

All right, then those are withdrawn at this time.

MR. MARVIN:

Yes, sir.

THE COURT:

I'm going to place them in the record just to —

MR. MARVIN:

That's fine.

THE COURT: make sure that the record complete. D-7 and D-8 will not be presented at the trial. The state has withdrawn those at the — at this time. And that objection would be moot to that.

**(EXHIBITS D-7 AND D-8 WILL NOT ALLOWED AT TRIAL)**

THE COURT:

Mr. English, do you have anything else, sir?

* * *

**EXCERPT OF AUGUST 1, 2011 TRANSCRIPT RE VOIR DIRE**

* * *

THE COURT:

All right, thank you, ma'am.

**(MS. MCCONNELL ESCORTED OUT OF COURTROOM)**

THE COURT:

I'm going to take that one under advisement for just a minute just to do a little research on that one because I mean Ms. McConnell has stated that she could place anything that she knows about this case aside and look at the evidence. You know, I believe in her demeanor and looking at her I believe that she would be able to do so. And I believe that she was forthright in her answers and that she did not hesitate in stating that she could place — place anything that she knew about this case aside.

MR. ENGLISH:

May I just respond briefly, Your Honor?

THE COURT:

Yes, sir.

MR. ENGLISH:

The stakes are too high, Judge. She's formed an opinion in this case. The stakes are too high.

THE COURT:

And, Mr. English, I am weighing that and that's why I am hesitating to just state that I would — would

not let her off for cause. I am weighing that because I know that the stakes are high in this situation and I will take it under advisement for about five minutes. I am going to let y'all do your peremptories in just one minute and when I come back I want to write down the ones that we have excused so that I can make sure of where I'm at.

MR. ENGLISH:

Thank you, Your Honor.

MR. SHERIFF:

Five minute recess?

THE COURT:

Five minutes.

MR. SHERIFF:

Court's in recess for five minutes.

**(COURT RECESSES)**

**(COURT RECONVENES)**

THE COURT:

All right, let's go back on record, please. All right, Deputy, are we back on record?

MR. SHERIFF:

You may remain seated. Court is in session.

THE COURT:

All right, Mr. Marvin is present. Mr. English is present, along with Mr. McCoy. After looking at the cases, after considering prior excuses for cause, Ms. Thomas was excused because she knew the victims in the case and knew matters about this case. She was

excused earlier. Mr. Burrell, his wife had taught at Parkway High School and he had gone to Stonewall Baptist Church. He said that his wife had taught the young man that was involved in this case and that he went to Stonewall Baptist Church. Ms. McConnell stated that she got the facts from an officer and that she had already formed an opinion about this case even though she stated that she ones that we have excused so that I can make sure of could place that opinion aside. But taking into consideration that we have excused these others, Ms. Thomas and Mr. Burrell, then I will excuse Ms. McConnell based on the seriousness of the nature of this case. So, I will excuse Ms. McConnell for cause.

MR. MARVIN:

We'd like the State's objection noted for the record, Your Honor.

THE COURT:

All right. Noted for the record.

**(MS. MCCONNELL - EXCUSED - CAUSE - DEFENSE)**

**(OBJECTION TO COURT'S RULING NOTED FOR THE RECORD)**

THE COURT:

All right, now, can I have your peremptories, please. Ms. Lang, which — has she already been accepted, Mr. Marvin?

MR. MARVIN:

The very first panel.

THE COURT:

All right. So, Ms. Lang —

MR. MARVIN:

She actually was the very first one.

THE COURT:

Yes, sir, she is in Seat No. 1, is that correct?

MR. MARVIN:

I believe so.

THE COURT:

All right. So, Ms. Lang is back-struck. That is seven for the State. Ms. Butler.

MR. MARVIN:

* * *

**EXCERPT OF AUGUST 2, 2011 TRANSCRIPT**
**RE VOIR DIRE**

* * *

MR. MARVIN:

Yes. And I can produce my police report as evidence. I have to make a copy of it, but –

THE COURT:

All right, so — All right, Mr. English.

MR. ENGLISH:

I'm the lawyer in this case. None of that evidence is before this Court. He didn't ask her anything about whether or not she had had any conversations with her — with this pastor. He had every opportunity to ask her have you had any conversation with your pastor about this case. Do you know any facts about this? She said she did not know any facts about this case. The mere fact that some individual who is in a police report she may — she knows to be her pastor and she has absolutely no facts or evidence about this case is not a viable reason for striking her. This is — Mr. Marvin is - There is a clear pattern of striking African-American jurors off of this panel and the reasons that he gives, Your Honor, are not sufficient. He, in no way, on his examination in any way connected her to Mr. McGee, did you have any knowledge of Mr. McGee, do you know whether or not Mr. McCoy has accused Mr. McGee of anything. The only thing she said was he's my pastor. That's all.

THE COURT:

All right.

MR. MARVIN:

Judge, she also said she would tend to believe her pastor.

MR. ENGLISH:

Well, the pastor's not — her pastor is not a witness in this case. The pastor hasn't been called and you know —

THE COURT:

Mr. English.

MR. ENGLISH:

And you know that he hasn't been called to trial. I apologize, Judge.

THE COURT:

Mr. English.

MR. ENGLISH:

I apologize. I'm zipping it.

MR. MARVIN:

Your Honor —

THE COURT:

Mr. English, I expect Mr. Marvin to respect you. I expect you to respect Mr. Marvin. When he's talking you'll listen. When he — you're talking, he's going to listen. And when I'm talking y'all are going to listen.

MR. ENGLISH:

I apologize, Judge. I've got my hand over my mouth.

THE COURT:

All right. I apologize, Mr. Marvin. You may proceed, sir.

MR. MARVIN:

All right. And just for the record not five minutes ago I was the one fighting to keep an African- American on this jury. So — and we have African- Americans on this jury. And I can — I'm going to make a copy of this police report and submit that if I can when we take a recess where he — And I'm pretty sure there's other places in here where he was referenced. I also intend on offering those subpoenas that were ordered by Mr. McCoy pro se, Madam Clerk. And I know those are in the record, but I'm 95 percent sure that there was one in there to him. And if I — if I'm wrong about that — but I also intend on submitting a — Hold on one second. Okay, let me make sure. I don't want to say something that's wrong. Yeah, I would — I would submit another statement from a fellow inmate of Mr. McCoy's named Joshua Paul Disotell, taken 3-3 of '09, where he summoned the police to his house — I mean to the prison and gave a statement which has been transcribed that said Mr. McCoy — the detective asked Mr. Disotell, "So he was upset at his wife?" The inmate answered, "He was upset at his wife because he caught his wife several different times cheating on him." Question: "Did she — did he say with who?" Answer: "Yes, sir, he said, uh, it was Officer McGee, for he's a — he goes — he goes to church or he's the pastor or goes to the same church as his wife." So, there's more than one entry into this case investigation that involves Richard McGee. So, I don't have — I — I would not have — Had — If that's not her pastor and she doesn't know Richard McGee she would not be being stricken. But he is her pastor. He's her pastor for five years. She said she would tend to believe him. And with the allegation against him —

And I'm trying to anticipate exactly what's going to happen in this trial with Mr. McCoy's subpoenas and things that are — that are coming. And we haven't addressed all those and we, I think, kind of agreed to — to take it as it came by the trial. But those are my reasons for striking Ms. McWashington.

THE COURT:

All right, Mr. English, I'll let you argue again.

MR. ENGLISH:

I would just — I would just make a move that everything he's written about what some inmate says is hearsay, Your Honor. None of that is in front of this Court. The assumption of it is Mr. — Mr. McGee is simply — his name is in a police report. He didn't in any way — if he felt so concerned about that he should have examined her on that. He didn't examine her on that and now when I made the Batson challenge he reaches into the piles and throws it up on the table. Why didn't he — why didn't he examine her on that? But, for the reasons stated, Your Honor, I believe that — I'm moving for a Batson challenge.

THE COURT:

Mr. English, I believe that Mr. Marvin has stated a race-neutral reason. Batson does not require anything but a race-neutral reason to be stated for the record. He has stated more than one reason that this juror knew this officer in this case; that the officer's name has come up before in this case. I do not remember — And I apologize. I do not remember if a subpoena was issued for Mr. — for Officer McGee. There have been numerous subpoenas that have been sought by Mr. McCoy, which I stated that we would take up during the trial and look at their necessity. But the juror did

completely say or, excuse me, did say that she would believe Officer McGee. And that is a race-neutral reason and, therefore, I will allow her to be stricken at this time.

MR. ENGLISH:

Object for the record, Your Honor.

THE COURT:

* * *

**EXCERPTS OF AUGUST 3, 2011 TRANSCRIPT RE GUILT PHASE OF TRIAL**

* * *

MR. ENGLISH:

Your Honor, I have some serious concerns about my client's – my client's emotional –

THE COURT:

This is – Is this going to be on record, Mr. McCoy? I mean Mr. English?

MR. ENGLISH:

You can – You can put it on the record, Your Honor. Let's put it on the record.

THE COURT:

All right. Mr. English, I've already – All right.

MR. ENGLISH:

I have some serious concerns about my client, Your Honor, and my client's emotional state in this trial. I have repeatedly attempted to tell Mr. McCoy that I cannot engage – given the level of evidence in this case engage his fantasies in this case. Mr. McCoy is angry at me. I am deeply concerned about Mr. McCoy and his behavior and his ability, Your Honor, to function in this trial. Mr. McCoy and I are not communicating. We are not – So, to instruct Mr. McCoy to communicate through me – Mr. McCoy believes, Your Honor, that I am in cahoots with the District Attorney to send him to the death chamber. And I am attempting to do my job. This is very difficult. And I need to say to the Court I am concerned about Mr. McCoy and Mr. McCoy's abil-

ity to sit in this courtroom and function as I've stated numerous times, Your Honor.

THE COURT:

Mr. English – Mr. McCoy, I am not – at this time I have ruled that you are represented by an attorney. I will not entertain any statements by you. This is a statement that you are – you have been represented by Mr. English. Sir, it has been determined that you will be represented by Mr. English. You will communicate through Mr. English. I will not take any chances on you making a statement, sir, that jeopardizes your right in this courtroom at this time, sir. And I have warned you numerous times. I let you have those statements as of last Tuesday when we had the argument regarding you removing your attorney and at that point in time I told you that you would be able to speak through your attorney; that you were represented by Mr. English. I will make that a part of the record. Mr. McCoy, we are in trial proceedings at this time. Any other outbursts – I will warn you again that if I have to remove you from this courtroom I have no problem in removing you from this courtroom. You will be able to hear the proceedings. You will be in a spot where you can hear the proceedings so that you can hear the testimony, but you will not be a disruption to this courtroom, sir.

MR. McCOY:

I understand, Judge Cox. But he didn't subpoena –

THE COURT:

Mr. McCoy.

MR. McCOY:

– any of my witnesses, Judge Cox. How can I –

THE COURT:

Mr. McCoy.

MR. McCOY:

– have a defense, Judge Cox –

THE COURT:

Mr. McCoy.

MR. McCOY:

– when he hasn't subpoenaed any of my witnesses.

THE COURT:

Mr. McCoy, I understand that. You will be able to discuss that with Mr. English.

MR. McCOY:

He –

THE COURT:

Mr. McCoy, I have made my ruling at this time, sir.

MR. McCOY:

Yes, sir.

THE COURT:

Do not disrupt the courtroom again. We have done – Mr. McCoy, you have done very well up to this point. Do not ruin that at this time. Sir, these people are making the judgment. I am trying to protect your rights in every way that I can, Mr. McCoy. So do not make any comments or do not disrupt this courtroom where I have to remove the jury again because I have a difficult enough job in trying to make sure that everything is done properly and I am trying to protect your rights in every way that I can, sir.

MR. McCOY:

Judge Cox, they deserve to know the truth. They're presenting one side of the story here, Judge Cox. He hasn't –

THE COURT:

Mr. –

MR. McCOY:

– subpoenaed not one of my witnesses, Judge Cox.

THE COURT:

All right, Mr. McCoy, I will let you take that up with Mr. English, but do not disrupt the courtroom is what I –

MR. McCOY:

I will not.

THE COURT:

– is what I'm –

MR. McCOY:

I will not, Judge Cox.

THE COURT:

– what I'm telling you, sir.

MR. McCOY:

Yes, sir.

THE COURT:

You can't be turning around talking to people in the audience.

MR. McCOY:

Yes, sir.

THE COURT:

All right?

MR. McCOY:

Yes, sir.

THE COURT:

So, please, do not do that again.

MR. McCOY:

I will not.

THE COURT:

All right. Thank you, sir. Mr. Marvin, I apologize I had to interrupt your opening, sir.

MR. MARVIN:

No problem. No problem.

THE COURT:

All right. Mr. English, are you ready to proceed, sir?

MR. ENGLISH:

I'm ready to proceed, Your Honor.

THE COURT:

And, Mr. McCoy is present. Please bring back in the jury.

MR. SHERIFF:

All rise for the jury.

**(JURY ESCORTED INTO THE COURTROOM)**

MR. SHERIFF:

All jurors are present, Your Honor.

THE COURT:

You may be seated. Mr. Marvin, you may proceed, please, sir.

MR. MARVIN:

Thank you, Your Honor. Okay, ladies and gentlemen, when we broke a moment ago I was discussing with you specific intent and the elements of first degree murder. Again, specific intent basically means you have to intend to do what you did. You can't do it by accident or erroneously. And, again, I would argue to you that not one, not two, but three people shot between the eyes shows a specific intent to kill. All of you were questioned during the voir process. All of you have different levels of education, different marital situations. Some, your kids are grown, some have young kids, but you've all got one thing in common and that's why you were picked. You've got common sense. I'm not going to be up here asking you to leap out into the darkness with the hope that something sticks. This is not a hard case. Common sense is all you'll need to conclude that Robert McCoy committed these murders and convict him of first degree murder. Now, just to back up a bit. You will hear from Detective Humphrey and he will tell you about various aspects of the case that he – that he handled, but it just so happened in addition to the items that Officer Szyska found in that white car that night that I can prove to you indicates Robert McCoy was the operator of that vehicle. In addition to that Detective Humphrey will tell you that the paper plate, license plates on the car, didn't belong to that car. It was registered to some other car, different make, model, color, everything. But when he ran the VIN number, the little stamp on the – on the motor and on different parts of the car, the car is registered to – Who

do you think? To Robert and Yolanda McCoy. Now, at this point as I stated, Mr. and Mrs. Young are being cut open by the pathologist to determine where is the bullet, what killed them. And it is – it is common sense to know that if someone gets shot between the eyes with a pistol that's what killed them. But I have to do more than that. I've got to prove that that caused their death. In some cases you can argue– If there's a car wreck, for instance, and a car runs off of Interstate 20 and runs right into a concrete bridge railing and the person in there is dead, you say, well, they died from the car wreck, right? Well, maybe. But they could have had a heart attack and that caused them to run into the bridge railing. So, this is not a car wreck case, obviously, but I have to prove exactly what killed them. So you will hear from Dr. Traylor from LSU about all three autopsies that he performed on Mr. and Ms. Young and young Gregory. And he will tell you in his expert opinion – and the judge will tell you what – who experts are. And in all kinds of lawsuits, both civil and criminal, lawyers can call a witness that will classify as an expert. And if this were a civil jury, for instance, and the – the issue was you hired a contractor to build you a home or a business and the roof fell in, you would call an engineer as a witness. And the witness would – could testify, well, the roof – the roof trusses were defective, they didn't have them far enough apart or had them too far apart and that's what caused the roof to fall in. And an expert witness in any situation is simply someone that can help the jury understand technical things. And they are people that are learned in a particular field. So a pathologist is someone that will qualify as an expert witness that can you tell how he or she – and experts are allowed conclusions. But they – they can tell you – he will tell you how he concluded that these bullets are what killed these three people. And

that – that may sound very, very, like, why in the world do we have to know that. If you shoot three people in the head, good God, I know – you know, I know. But I have to prove it. It's within my burden of proof. And I'll tell you or apologize to you now because there may be questions that I ask that you think are the totally stupidest questions, why, look, Lord, we don't need to know that. We – I already know that. The man's a doctor or a pathologist or whatever. But I don't know what's going through all of your brains. It's impossible for me to know that. So if I ask a question once or if I ask a stupid question once or a simple question two or three times it's because I have to know that you know what the answer to that question is because I can't assume it. All the time we try jury trials and at the conclusion of the trial, win or lose, both sides usually might want to go talk to the jury and say what did you think about such and such, what did you think about – you know, how did I do. Some lawyers say how did I do. Am I good lawyer? Did you like me? Did you not like me? But you'll find out things from juries like, golly, I didn't know. I sure didn't know they were thinking that. So that's – again, I'll just apologize for that because I may do that during this trial and ask a stupid question. All right. Now, immediately after all of this happens Detective Humphrey and other detectives with him begin a massive, massive search for Robert McCoy's whereabouts because he's – he's gone. And Judge Cox will tell you in your – in your closing charge, the final charge, the fact that Robert McCoy fled, the fact that he bolted out of that car and ran– Now, I'll get to how he was caught because it's – it's pretty good stuff. You're going to like it and you're going to be proud of your police department. But Judge Cox will tell you about flight. Evidence of flight, concealment and attempt to avoid apprehension is relevant. If you

find that the defendant fled immediately after a crime was committed or after he was accused of a crime, the flight alone is not sufficient to prove that the defendant is guilty. However, flight may be considered along with all the other evidence. You must decide whether the flight was due to consciousness of guilt or to other reasons unrelated to guilt. Ladies and gentlemen, Robert McCoy didn't ditch his car, jump over a six- or eight-foot fence and run through a drainage ditch and run across I-20 in busy traffic and escape because he wanted to get to the other side of the road. He was running because the cops were after him because he had just committed three murders. So, Detective Humphrey will tell you what all transpired in the coming days. Now, I'm going to leap ahead just a minute. You will hear from a police officer named – Just a minute. You will hear from a police officer named Craig Roberts. Okay. I never met the guy yet, but he's here and he's a police officer on a police force in Lewiston – the Lewiston PO, police department in Lewiston, Idaho. Okay. And so, I know you're thinking what in the world does that have to do with this case. Well, Officer Roberts was contacted by the Bossier Police Department and the United States Marshal's Service, who was assisting the Bossier Police Department, while he was on duty in Lewiston, Idaho, because the Bossier police had learned –And you'll hear great details of how they learned that – that Mr. McCoy was the passenger in a Swift 18-wheel truck – 18-wheeler truck. Swift Company is the name of the trucking company. And they learned that Mr. McCoy had switched – he had hitchhiked with one truck and had switched into this Swift truck at a weigh scales station. And the driver of the truck that Mr. McCoy had been riding in prior – immediately prior said, well, he got into a Swift truck and I don't know much about it, but I know at the weigh

scales the truck got a ticket, an overweight ticket; that he, you know, remembered that. So, Detective Humphrey called the weigh scales station and said how many tickets did y'all write on this date and they told him and they were able to narrow it – narrow it down to a Swift Truckline truck. So, the Bossier City Police, along with the U.S. Marshal's Service, gets on the phone and calls Swift Truckline Company. I don't know where they're based out of. And said y'all got a truck, this is the truck number, they had the ticket at that point, the weight ticket, and the Swift company has GPSs in their trucks and they said our truck's in Lewiston, Idaho. What in the world would y'all want with our truck in Lewiston, Idaho. So, after explaining the situation they were able, through GPS, to say our truck's driving right down Elm Street in Lewiston – or whatever street in Lewiston, Idaho. So, in comes Officer Roberts and other officers of the Lewiston Police Department. So they pull this truck over. Guess what? You're going to get to see a video of that from their dash cam. So they pull this 18-wheeled truck over in a little bitty town in Idaho and there's the driver of the truck. He has no idea what's going on. He's merely given someone –given Mr. McCoy a ride. So, the police officers make their stop, both the driver and occupant are pulled from the vehicle. Guess who the occupant is? Robert McCoy. He's in Lewiston, Idaho. You will hear Officer Roberts tell you what he found after he pulled Mr. McCoy from that 18-wheeled truck. And you will see video of some parts of it. It's obviously just a stationary camera located on the dash of his police car. But guess what he found in the – right behind the passenger seat of the 18-wheeler? He found a pistol. A .380 caliber pistol. Now, before Mr. – Officer Roberts testifies you will have already heard testimony from a young lady at the crime lab named Carla White. She

works at the North Louisiana Crime Lab in Shreveport. And she will have testified by that point that she has recovered bullets and bullet fragments from each of these three bodies and that she tested them and test fired the .380 caliber gun that was recovered in Idaho in the truck that Mr. McCoy was a passenger in and will – She, as an expert, will have made a conclusion – And this is just like you see on TV, CSI – that's the gun that fired the bullets that killed the three people. So, other witnesses you will hear from will be identifying other forms of evidence. I think you'll find this case interesting. I think you'll think– that you'll agree that it will flow pretty quick. The other things the State will prove to you when Officer Szyska stopped the vehicle in the passenger seat of the – of Mr. McCoy's vehicle was a cordless telephone. I don't mean a cell phone. A cordless telephone. And a cordless telephone that you have in your house, you know it will work in your house and to some extent out in your yard, but once you get away from the handset or the base set, it doesn't work anymore. So, that item of evidence – I have it right here – you will see Officer Szyska recovered that and he'll tell you where he found it. And when Detective Humphrey was able to take it back to the residence where two dead bodies and one dying body were – was located, and you put that cordless handset on the base station at the Young residence it works. When you find the other cordless phone and the base station at that residence the serial numbers match up exactly. So, ladies and gentlemen, that's proof that Mr. McCoy was in that house. I ask you to listen carefully to all of the evidence, the evidence that Mr. English may produce. And I'm required, I'm mandated, I have to get up here and tell you what my case is about. Mr. English does not. And he may or may not make an opening statement. I don't know that. But if he does, listen carefully

to everything and every witness and piece of evidence that he admits because I told you in the voir dire process wait until the end to make up your mind. Wait until the end to make up your mind. But you will hear a lot of evidence here and everything that the police department did and how they did it. You will hear from a representative of Wal-Mart and you will see a video of Wal-Mart where Mr. McCoy walks in Wal-Mart on 5-5 of '08, the day of the homicide, and purchased a pack of bullets. You want to guess what caliber they were – .380. Hmmm. You will see that video tape of that purchase and the representative from Wal-Mart will authenticate the video, as well as the receipt that was found in the white car for the bullets on 5-5 of '08. I told you in voir dire it's been eight and a half years since I was elected district attorney. This is the first time that I have stood before a trial jury and said this is a death penalty case. I don't know how many murder cases we've tried. I don't how many murder pleas we've taken. But it's been a lot. This is a death penalty case. And it – the first order of business is to convict Robert McCoy. Judge Cox stated a moment ago he does start the trial with a clean slate. He sits there an innocent man. He's an innocent man who's murdered people, but he's innocent at this point. Give him the benefit of the doubt, but at the conclusion of this trial I will be asking you to convict Robert McCoy of three counts, not one, not two, but three, counts of first degree murder because the facts of this case will indicate to you beyond all reasonable doubt that he is guilty of that charge. Thank you.

THE COURT:

Mr. English.

(ENGLISH - OPENING STATEMENT)

MR. ENGLISH:

Good morning, ladies and gentlemen. I'm going to say to you probably for the fifteenth time, my name is Larry English and I represent Mr. Robert McCoy who is sitting at this table. As a lawyer, as a defense lawyer, we are trained to make the State prove every piece of evidence that it wishes to interject into a trial. In this case I cannot stand in front of you because of what the stakes are in this case and lie to you or tell you any differently that the District Attorney can prove every fact that he has just alleged to you. There is no way reasonably possible that you can listen to the evidence in this case and not come to any other conclusion than Robert McCoy was the cause of these individuals' death. But that's not the only issue to be decided. First degree murder requires that there be specific intent — specific intent to kill those individuals. The State cannot put on any evidence that Robert McCoy ever made any malice statement towards those individuals; that those individuals was ever on his radar to do harm. Robert McCoy is crazy.

MR. McCOY:

What?

MR. ENGLISH:

Robert McCoy is crazy. He meets the legal definition of competent, but evidence will be put on in this case that Robert McCoy suffers from emotional and mental issues that affects his ability to make decisions in this case.

MR. McCOY:

Judge Cox, may I be excused?

THE COURT:

Mr. McCoy. Stop, Mr. English. All rise, please.

MR. SHERIFF:

All rise for the jury.

(JURY ESCORTED OUT OF COURTROOM)

THE COURT:

You may be seated. Mr. McCoy, this is your second warning. I've warned you not to make any statement in front of this jury. I'm warning you at this time. Your attorney is making his argument at this time. You are represented by Mr. English. This is your second warning. If you make any other outbursts I will remove you from the courtroom to a conference room where you can hear the proceedings, sir. You may have a disagreement with Mr. English, but he is representing you at the present time. You have made your statements known as of last Tuesday. I have already previously warned you about this, Mr. McCoy. I've warned you one time this morning about discussing this in the audience. I will warn you again, do not make any outbursts in front of the jury. If you do make any outbursts in front of the jury or disrupt this trial in any way, I will remove you from the courtroom. I do have the case law that supports that, sir. I will let you know that on the record at this time. I do not want to do that, Mr. McCoy. You have -- you have been at that table during all proceedings and this is the first time that we have had any outbursts. I understand, sir, that you may disagree with Mr. English's approach. You may discuss that with him at any break.

MR. McCOY:

Judge Cox, Mr. English is simply selling me out, Judge Cox. They know cops killed these people, Judge Cox, and you want me to sit here, Judge Cox, and just

let this man throw away all aspects of my due process. I have told you about Mr. English, Your Honor. I tried to get Mr. English removed, Your Honor, and you still kept Mr. English on my case, Your Honor, when I told you Mr. English was not putting up any type of defense for me. He's sitting there vindicating, Your Honor, that I murdered my family. I did not murder my family, Your Honor, I had alibis of me being out of state. Your Honor, this is unconstitutional for you to keep an attorney on my case when this attorney is completely selling me out, Your Honor.

THE COURT:

Mr. McCoy, we have had this discussion. We -- Mr. English is representing you.

MR. McCOY:

I don't want him to represent me, Your Honor.

THE COURT:

Mr. McCoy -

MR. McCOY:

I told you that a week ago.

THE COURT:

Mr. McCoy, I'm not going to have any other outbursts. If you're not going to sit at that table -

MR. McCOY:

May I be removed, Your Honor?

THE COURT:

You may be removed to the conference room, sir, where you can hear. Oh, Mr. -- Mr. -- Deputy -- Deputy, he has to remain. All right, Deputy, he has to remain at the table, please. Mr. McCoy, this time I'm go-

ing to give you one more warning, sir. If you continue to disrupt this courtroom, I will remove you after that disruption, sir.

MR. MARVIN:

Your Honor, we are having a little bit of technical difficulty with the video, but –

THE COURT:

Mr. Marvin, after – after Mr. English finishes his closing – I mean his opening statement I'm going to take about a fifteen-minute recess –

MR. MARVIN:

Okay, that's fine, sir.

THE COURT:

– to allow y'all to –

MR. MARVIN:

That's fine.

THE COURT:

– to do that and give Mr. McCoy a break and Mr. English a break and go from there. Can we proceed at this time, Mr. Marvin, please?

MR. MARVIN:

Your Honor, if – Okay, yes, sir, if we can take that fifteen-minute break at the appropriate time that would be fine.

THE COURT:

I am going to take a fifteen-minute recess at that time. Mr. English, are you ready to proceed, sir?

MR. ENGLISH:

Yes, sir, I am, Your Honor.

THE COURT:

Mr. McCoy, I've warned you. Please do not violate that warning, sir.

MR. McCOY:

Yes, sir.

THE COURT:

Thank you, sir. Please rise for the jury. Please bring the jury in.

MR. SHERIFF:

All rise for the jury.

(JURY ESCORTED INTO COURTROOM)

MR. SHERIFF:

All jurors are present, Your Honor.

THE COURT:

You may be seated, please. All right, Mr. English, I apologize for interrupting, sir. You may proceed, sir.

MR. ENGLISH:

Ladies and gentlemen, when we were disrupted I was saying to you, and I will say to you again, that a reasonable person cannot look at this evidence without coming to any other conclusion than Mr. Robert McCoy was the cause of these three peoples' deaths. That is the facts in this case. The facts in this case are overwhelming and the District Attorney can prove this case. But that's not enough. This is a first degree murder trial. And the District Attorney has to prove specific intent. We believe that the evidence will show that because of Mr. McCoy's emotional and mental con-

ditions that this is a second degree murder trial. This is not a first degree murder trial. Dr. Mark Vigen will testify in this case. Dr. Mark Vigen will testify that Robert McCoy suffers from serious emotional issues that inhibits his ability to function in society and to make rational decisions. That evidence will be in this right -- and we talked about that. The evidence will show that on at least six occasions Robert McCoy attempted suicide. He's so wracked with guilt about this case that he has attempted to kill himself six times. The evidence will show that. Mr. McCoy -- The evidence will show that he believes he did not commit these murders. The evidence will show that Mr. McCoy believes that everybody in this courtroom, the judge, the district attorney, myself, the Bossier Parish Police Department, the Idaho Police Department, we are all in a conspiracy to kill him. Mr. McCoy -- The evidence will show that Mr. McCoy has seen this evidence that you will see in this courtroom. It is unambiguous. This is not easy for me as a district attorney (sic) to stand in front of a jury and tell you in a capital murder case that my client committed three murders, but the evidence that will be put on that screen, that will come from that stand will say that he did it. Mr. McCoy has seen that evidence, but yet he -- in all of his soul he does not believe he committed these crimes. Mr. McCoy -- Dr. Vigen will give you medical terms. And again, I admit the evidence is clear Mr. McCoy has been judged to be legally competent to stand trial. But in layman terms, Mr. McCoy is crazy, ladies and gentlemen. Mr. McCoy is not here with us today. Mr. McCoy -- The record will show and the evidence will show that Mr. McCoy believed that his wife was having an affair. He was fixated on it. He was fixated on that she was having an affair. And the evidence will show that Mr. McCoy didn't go there to kill Christine Colston or Gregory Colston or

Willie Young. The evidence will show Mr. McCoy had no -- had never ever shown any malice or anything toward those three people. Mr. McCoy went there looking for -- the evidence will show he went there looking for Yolanda --Yolanda Colston and she wasn't there and something happened and he snapped. Because at the end of the day, ladies and gentlemen, although the evidence is overwhelming that Mr. McCoy caused the death of these people, the evidence is also, ladies and gentlemen, that Mr. McCoy had no malice against those people. He snapped in that house when he couldn't find Yolanda and he killed those three people. Mr. -- The evidence will show that Mr. McCoy lives in a fantasy world; that every time he's confronted with an issue he constructs a fantasy and he keeps -- and it goes from level to level to level to level. And when he's telling you that fantasy he believes in it. He believes in it. Robert McCoy has rights in this case. I've just told you he's guilty, but Robert McCoy has rights in this case. I will try to conduct this trial in a way that does not disrespect the victims in this case or waste your time. But the law requires that I have a duty to protect Mr. McCoy's rights. Now, Mr. McCoy believes I sold him out. Mr. McCoy believes that I am in a conspiracy with the judge, Mr. Marvin and the police to kill him. That's not what my job is here today. My job is here today is to insure that Mr. McCoy's rights are protected. Now, Mr. Marvin has indicated to you he's going to ask you -- he's going to be asking stupid questions. And he's going to ask questions over and over again because he don't know whether or not you will believe and understand. That's not why Mr. Marvin -- Mr. Marvin is a skilled lawyer. That's not why he's going to be asking those questions. He's going to be asking those questions because he wants to inflame you. He wants through this trial to put on evidence and to make

statements and to ask questions that are going to inflame you and blind you so that you cannot do your duty in this case. And your duty in this case will be to listen to the evidence. Your duty in this case will be to listen to all of the factors in this case and make a determination. So, guess what? Mr. -- Mr. Marvin doesn't have any more pressure on him. I'm telling you Mr. McCoy committed these crimes. But the issue is whether or not in this phase of the trial that Robert McCoy is guilty of first degree murder. And I say to you that he is not. I say to you that Mr. McCoy is a damaged human being that cannot function among us and his mental and emotional state is a mitigating factor in this case. You will hear evidence in this case that will challenge your humanity and everybody else's humanity in this case. You will hear evidence about a sixteen-year-old child killed. And it will be gut-wrenching. It will be gut-wrenching. But the law requires a duty of you as you listen to the evidence in this case. It's okay to cry. It's okay to feel for the victims in this case. But we live in a country that says, "And justice for all." That's the country we live in. That's why we're here. That's why we're here. It doesn't matter that this evidence is overwhelming. And it is overwhelming. The law requires for us to come here today and the next several days to stand in judgment of this man. And we don't take people out and shoot them or cut their heads off because we believe in justice for all. I will do my best to conduct this trial for my part in a way that does not waste your time; that does not cause this family any more harm. And sitting on that back row is Mr. McCoy's family also. But I have to protect his rights and we have to get through this. And all I ask you is as difficult as it is, is to hold on to your humanity when you watch these pictures; to hold onto these humanity -- your humanity when you hear the

evidence in this case and remember you have to judge the facts and look at every aspect of this trial. Thank you.

THE COURT:

At this time, ladies and gentlemen, I am going to take a fifteen-minute recess. I will give a fifteen- minute recess. If you need to go downstairs for a break, for a smoke break, please take that at this time. And we will be back promptly in fifteen minutes.

MR. SHERIFF:

All rise for the jury.

THE COURT:

Ladies and gentlemen, before you leave -- Y'all go ahead, please.

(JURY ESCORTED OUT OF COURTROOM)

THE COURT:

All right, just one minute, please. Mr. Marvin, when we come back I intend to sequester the jurors -- I mean, well, sequester the witnesses, put them under the

* * *

**CROSS-EXAMINATION [OF KARY SZYSKA]**

**BY MR. ENGLISH:**

Q Officer, I have a few questions for you.

A Yes, sir.

Q The — the police video in exhibit — and I forgot which one it was. Was it Exhibit 1? Were you able to positively identify Robert McCoy as —

A Well —

Q — I'm sorry.

A Continue.

Q Were you able to positively identify Robert McCoy as the individual that was fleeing the vehicle?

A I could not.

Q On any of the items that were found in the car did you retrieve any prints from them?

A No, sir, that's — that's above and beyond what I would do. Our ID department would.

Q Did you touch every item in the car without gloves on?

A Yes, sir.

Q Does protocol require you to wear gloves all the time?

A No, sir.

Q Did you get a print off the Wal-Mart receipt?

A I did not, no, sir.

Q And can you say positively that Mr. McCoy was ever fleeing the residence?

A Can I say positively he was fleeing the residence?

Q Yes.

A I can't positively say it. The vehicle was fleeing the residence.

Q I'm sorry?

A The vehicle was fleeing the residence.

Q Okay. Thank you.

* * *

**CROSS-EXAMINATION [OF GARY WAYNE ROBERTS]**

**BY MR. ENGLISH:**

Q Good morning, Officer.

A Good morning.

Q My name is Larry English. I represent Mr. McCoy. I have a couple of questions for you. Could you positively say that Mr. McCoy was the person that Ms. Colston was talking about?

A No, I can't. I can't identify — ID him or identify him.

Q And do you consider a first-name basis to identify a person or the whole name to identify a person?

A As to what?

Q Do you consider that the first-name basis — you can use the first-name basis to identify a person or would you need the whole name to identify the person?

A The whole name.

Q And so can you possibly say that Ms. Colston was talking about Robert McCoy?

A I can't positively say that.

Q And so can you say — stating that if Mr. McCoy — Can you — Do — Can you — can you state whether or not Mr. McCoy was present in the apartment at the time?

A I can't say he was present.

Q Okay. And when did you turn the 911 tape over to the police — over to the district attorney's office?

A I didn't turn it over. Our administrative offices they contact them, they make the recording and they turn it over.

Q Hold on just a — One more question, Officer. Hold on. My last question. Is it fair to say that one should look at the whole situation before they — before they decide judgment?

A Yes, sir.

Q Thank you.

THE COURT:

* * *

MR. ENGLISH:

I have just a few questions for you Mr. McCoy wants me to ask you, sir.

**CROSS-EXAMINATION [OF ALVIN EAGLE, JR.]**

**BY MR. ENGLISH:**

Q Have you ever seen Mr. Robert McCoy before?

A Not that I remember, sir.

Q Did Detective Humphrey tell you upon arrival at the location that Mr. McCoy committed this crime or he said Mr. McCoy committed this crime?

A No, sir.

Q Didn't they find drugs in the residence and drugs in the Colstons' – Didn't they find drugs in the Colstons' residence?

A I have no knowledge if any were found.

Q Didn't they remove marijuana from the kitchen table that was either smoked or unsmoked?

A I have no knowledge of that either, sir.

Q Did you or any other officer take the gun casing shells right after the collection? Did you — did you keep the gun casing shells after — after they were collected?

A I did not collect any evidence other than the photographs that I took.

Q Isn't it fair to say that on or about 5-7-09 only the victims' clothing was turned in with — with one fired bullet?

A I have no knowledge of that, sir. The only knowledge I have is what happened at the scene itself. Everything after that as far as the crime scene, detectives, and all, I have no knowledge of any of that.

Q I have just a few more questions. Why wasn't the shell casings turned into the crime lab after direct collection to save the expense of tainting the evidence?

A I have no knowledge of that, sir.

Q Has Bossier City always held evidence of a crime scene for fourteen days?

A I have no knowledge of that either, sir.

Q Can you explain to us why it took the police fourteen days to turn in very crucial evidence?

A I have no knowledge of that either, sir.

Q Didn't the police department initially say that a drug deal went bad at this residence and that was the cause?

A I have no knowledge of that either, sir.

Q Do you know Robert Thomas?

A Not that I know of, sir?

Q Do you know that he's an ex-Bossier Sheriff's deputy?

A I don't know him, sir.

Q Do you know — Don't you know that he has been investigated as a known drug dealer and trafficker?

A No knowledge of that either, sir.

Q And are you aware that you are under oath today?

A Yes, sir, I do.

Q Thank you.

THE COURT:

Any redirect, Mr. Marvin?

MR. MARVIN:

Just briefly, Your Honor.

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**CROSS-EXAMINATION [OF JAMES G. TRAYLOR]**

**BY MR. ENGLISH:**

Q Doctor, my name is Larry English and I represent Mr. McCoy and I have a couple of questions – actually, Mr. McCoy wanted me to ask you a couple of questions. Can you determine – Are you able to determine by any way by what you – Let me ask this. Can you determine the height of the shooter by any of the evidence that you have evaluated?

A I cannot.

Q Did you – Was there any – Did you find any illegal substance in Mr. Willie Young?

A Yes.

Q What did you find?

A He had two drugs – If you'll allow me to refer to my report?

Q Go ahead.

A Well, let me rephrase my answer. I'll began – You asked me about illegal substances. The only illegal substance that was present in Mr. Young was some marijuana.

Q Well, I – I'm only – my only interest of it is did you find any marijuana in Mr. – in Mr. Young?

A Yes.

Q Okay. Could you tell how much?

A I think the report stated 22 nanograms per milliliter and that was whole blood.

Q That doesn't mean anything to me. I'm sorry.

A Well, there's – Some marijuana is better than others. The active metabolite is Delta 9 Tetrahydrocannabinol. It's called THC. So the report or the testing company gives a range of the active ingredient from like 1.75 to three point something. And they say that if the individual smokes within a few minutes the range can be from 50 to 250 nanograms per milliliter in the whole blood. Mr. Young's level was 22 nanograms per mill. I don't know how strong the marijuana – the marijuana was that he smoked, but there – there's also a metabolite which is called Carboxide Tetrahydrocannabinol which was not present. So that tells me that he actively – probably you could say safely within thirty

minutes to an hour have smoked some marijuana. The active ingredient is present. There's not a whole lot of it, but there is metabolite present. So that kind of tells me that he recently smoked a joint. That's about all I can say.

Q Thank you, Doctor.

MR. MARVIN:

Just a couple of redirect upon that issue, Your Honor.

THE COURT:

Yes, sir.

* * *

**CROSS-EXAMINATION**
**[OF KEVIN HUMPHREY]**

**BY MR. ENGLISH:**

Q Officer Humphrey, my name is Larry English and I represent Mr. McCoy. You were leading the investigation -- the homicide investigation, were you leading for Bossier?

A Yes, sir.

Q And you were leading the team that was attempting to capture Mr. McCoy?

A Yes, sir.

Q And when Mr. McCoy was captured in Idaho were you informed of that?

A Yes, sir.

Q And you were in constant contact with the Idaho police, I'm assuming, while Mr. McCoy was there?

A I don't understand that question.

Q I mean were you -- were you in regular contact with them?

With the Idaho police once Mr. --

A Yes, sir.

Q Once Mr. McCoy was apprehended, were you in regular --

A Yes, sir, we would speak periodically.

Q Okay. Are you aware of -- were you ever informed by the Idaho Police Department that Mr. McCoy attempted suicide?

A Yes, sir.

Q Do you recall what you were told?

A He attempted to hang himself.

Q He attempted to hang himself. You were told that by the Idaho Police Department?

A I believe so.

THE COURT:

Mr. English, you need your microphone.

MR. ENGLISH:

I'm sorry. I need to come to the microphone. I'm sorry.

Q Do you recall talking to an Officer Richard Smith? Does that name ring a bell to you? From the Idaho Police Department.

A I talked to somebody. I don't know who it is.

Q Okay. Did they tell you that Mr. Smith -- that Mr. McCoy was found hanging from a sheet in his jail cell?

A Yes, sir.

Q Does that sound familiar with you?

A Yes, sir.

Q Do you -- did they tell you that Mr. McCoy was unconscious?

A Yes, sir.

Q And that he was rushed to the hospital?

A Yes, sir.

Q Okay. And do you recall being told that Mr. McCoy was put on suicide watch?

A Yes, sir.

Q And did you help facilitate the extradition of Mr. McCoy back to Bossier Parish?

A I supplied the District Attorney's Office with --

Q You were -- you were -- you were involved -- you were --

A -- with the paperwork.

Q You were aware of that transaction is what I'm asking.

A Right.

Q And were you present when Mr. -- when Mr. McCoy was brought back to Bossier Parish?

A No, sir.

Q Were you aware of that when Mr. McCoy was brought back to Bossier Parish he was put on suicide watch?

A No, sir, not that I know of.

Q How long did you continue to be involved in the -- in the investigation in this case?

A The last time I actually had any physical action was when I got the DNA swab from Mr. McCoy.

Q Okay. Are you aware of that Mr. McCoy when he was subsequently incarcerated here in Bossier Parish he attempted suicide again? Were you aware of that?

A I was told that.

Q You were told that he did attempt suicide. You were told that he had swallowed razor blades?

A Yes, sir, I was told that.

Q Were you told that Mr. McCoy had attempted a third suicide --

MADAM COURT REPORTER:

Mr. English.

MR. ENGLISH:

I'm sorry.

Q Mr. McCoy attempted a third suicide --

A Yes, sir.

Q -- where he swallowed -- I believe one of the officers indicated he swallowed either tissue or one officer said the Bible or something like that?

A The Bible?

Q He swallowed paper.

A Oh, I'm not aware of that one.

Q Okay. Did you ever during your investigation determine whether or not Mr. McCoy had ever made any threats toward Willie Young?

A I – I've never talked to Mr. McCoy.

Q No, that's not what I'm asking you. I'm asking you a totally different question. I'm saying you were involved in the homicide investigation –

A Right.

Q – correct?

A Right.

Q During that investigation did you ever determine any evidence that Mr. McCoy had ever made a threat – had ever made any violent threats towards Mr. Willie Young?

A Mr. Young never told me that.

Q Okay. During your investigation of Mr. McCoy did you ever determine that Mr. McCoy had ever made any violent threats against Ms. Christine Colston?

A She didn't — she never said anything about — about threats.

Q And during your investigation did you ever determine whether or not Mr. McCoy had ever made any violent threats toward Gregory Colston?

A No, sir.

Q Hold on just a second, Officer. Officer, I'm sorry, I have a few more questions for you. When you – when Mr. McCoy was – did you ever state to Mr. McCoy after he was arrested that you would do what-

ever it takes to put his name on television in the worst way imaginable?

A No, sir, I did not.

Q Did you – did the police report state that you told the Shreveport Police Department that a man six-foot-one, 160 pounds - - 160 pounds, bright skin, was the alleged – was the alleged assailant that committed the murders? Did you ever tell that to the Shreveport Police Department?

A I didn't. I don't –

Q Did an eyewitness to – that saw the individual fleeing the scene give a description of a black man that was 6'1", 160 pounds and bright skin? Do you recall that?

A No, sir.

Q Did you ever tell Mr. McCoy that he was a snitch and you were going to kill him?

A No, sir.

Q Thank you.

MR. MARVIN:

* * *

**CROSS-EXAMINATION [OF CARLA WHITE]**

**BY MR. ENGLISH:**

Q Mr. McCoy has asked me to ask you some questions. But before I ask you those questions, my name is Larry English and I represent Mr. McCoy in this case. How many bullets did you – How many bullets did you – that were actually pulled from the crime scene did you actually make a determination was shot from that weapon?

A I'm not exactly sure the location they were recovered from.

Q Right.

A But total I examined two bullets.

Q Two bullets?

A Yes, sir.

Q I think they were listed as 2 and 18 on the evidence report, correct?

A Yes, sir. My No. 2 and my No. 18.

Q Okay. All right. And you don't know which victim they were – those bullets were pulled from, do you?

A Actually, my – my report – my report does not state that, but I do believe the item of evidence may possibly list where they had come from.

Q All right, thank you. In – in your work do you look for DNA or are you – Do you look for DNA on – on weapons?

A No, sir, I do not.

Q Okay. All right. You don't look for fingerprints?

A It's – I do have the – I am able to do that. In this particular case it was not asked of me to do so.

Q You were not asked to look for fingerprints on that weapon?

A No, sir.

Q I mean you don't know who actually fired the weapon, correct?

A That would be correct.

Q Do you remember when Mr. – Do you remember receiving these — those — the bullets from Mr. Allen, Sergeant Allen?

A I don't actually receive the evidence from the submitting representative. We have an evidence technician who receives the evidence. The evidence technician then places the evidence in my custody, my custody locker actually, which is where I then received the evidence from.

Q Okay. Thank you.

A Yes, sir.

Q Can you tell whether or not the gun was shot more times than was stated in the police reports?

A No, sir, I don't have any way to tell that.

Q Do you know — did you determine who — who the weapon was registered to?

A I do not have that information.

Q Okay. Again, you have no idea or way of showing who shot the weapon?

A That's correct.

Q And, again, you just stated you have a — what's called an evidence technician that receives all the evidence from the -from the various law enforcement agencies?

A Yes, sir.

Q Last question. Did you — Were you — Do you fingerprint the cartridges on the bullets?

A I did not.

Q Okay. Were you requested to do that?

A I do not believe so.

Q Okay. All right. Thank you.

THE COURT:

Any redirect, Mr. Marvin?

MR. MARVIN:

None. Thank you, Ms. White.

THE COURT:

* * *

**GAYLE BERNARD HOUSTON**

**CALLED AS A WITNESS
BY COUNSEL FOR THE STATE,
WHO, AFTER HAVING BEEN DULY SWORN,
WAS EXAMINED AND TESTIFIED AS FOLLOWS:**

**DIRECT EXAMINATION**

**BY MR. MARVIN:**

Q Would you state your name and spell your last name for us.

A Gayle Bernard Houston, H-o-u-s-t-o-n.

Q Okay. Mr. Houston, do you know Robert McCoy?

A Yes, I do.

Q How do you know Mr. McCoy?

A A childhood friend.

Q Okay. So you've known him all your child and adult life?

A I would say so.

Q Do you see Mr. McCoy in the courtroom?

A Yes, I do.

Q Can you point him out?

**(WITNESS INDICATING DEFENDANT)**

MR. MARVIN:

Okay. Your Honor, we would like the record to show that he identified the defendant.

THE COURT:

Let the record so reflect.

Q Mr. Houston, I'm going to take you back to May of 2008, specifically a day -- Wait a minute -- on May the 5th, 2008, or possibly May the 6th, 2008, did you see Robert McCoy?

A Yes, later on that night. you come into contact with Mr. McCoy?

A I'd say it was just downtown. That's all I can say. It was just downtown.

Q Okay. Was anyone else with him?

A Yes.

Q Who?

A No. No, just him.

Q Okay. Was there anyone else with the two of y'all?

A Yes.

Q Who?

A Me and his brother.

Q And his brother?

A Uh-huh.

Q Okay. When you saw Mr. McCoy that night was he visibly upset to you?

A He looked normal to me.

Q Sir?

A He looked normal to me.

Q Okay. He didn't seem like he was upset or emotional about anything?

A No.

Q Okay. Did you go with Mr. McCoy – Did you go to pick up Mr. Robert McCoy?

A Yes.

Q Okay. Who went?

A His brother and my brother.

Q Okay. And where did y'all pick up Robert McCoy at?

A Downtown. I don't know the name of the street.

Q Okay. But not at any business, not ant any nightclub or not get Robert?

A No. His brother sounded upset and, so, me and my brother we just decided to see what was going on.

Q Oka. And did Robert end up getting in the vehicle with – with you?

A Yes.

Q Okay. What, if anything, did Robert say when he got in the car?

A Basically, he was just quiet and -- and then eventually he just said, you know, he "F'd" up and we was all trying to figure out what -- what you done "F'd" up. And, I like I say, he looked normal to me.

Q Okay. What did he say when you say he "F'd" up, what did he respond?

A Nothing because later on -- you know, it was -- it was hard to say.

Q Okay. But Robert didn't seem emotional to you?

A No, he just looked normal -- normal.

Q Mr. Houston, I'm going to give you a statement. Do you remember giving a statement to Detective Brian Griffith on May the 8th, 2008?

A Yes.

Q Can I give you a copy of that and let you look over it for a minute or two?

A All right.

Q Thank you.

THE COURT:

All right, Mr. Marvin, are you ready to proceed?

MR. MARVIN:

Okay.

Q All right. So, Mr. Houston, does that refresh your memory of the statement you gave back on May 8th of 2008?

A Yes.

Q Okay. So, I'm going to start somewhere on about the third page. Did you tell Detective – Detec-

tive Griffith that you picked up Robert around the train tracks by the Holiday Inn motel?

A I believe so.

Q Okay. Is that right?

A I believe so.

Q All right. And you were asked what Robert said and you kept saying — you told us a minute ago, "I F'd up", and you — down toward the bottom of that page you said — you said the same thing three times, "I F'd up, I F'd up, I F'd up." Okay.

A Uh–huh.

Q Do you recall saying that?

A Yeah.

Q And you told Detective Griffith that Robert was sitting in the back seat with you, correct?

A Yes.

Q And the two other individuals were in the front?

A Yes.

Q Then on the page following that the detective asked you what did he say about what he did besides he just "F'd" up? The top of the page.

A Yes.

Q Okay. And what did you tell the detective?

A I said he done shot three people.

Q He told you that?

A That's the part where I'm kind of confused because later on that night — later on that night when I

went to work I remember talking to his brother because I was trying to figure out what in the world done went down because my daddy called and said, you know, Robert done shot three people and stuff.

MR. ENGLISH:

I object to that statement as hearsay, Your Honor, and I ask that it be stricken.

THE COURT:

I'll sustain and strike.

Q Mr. Houston, I'm only asking what Robert said to you. Not what your dad or his brother said to you, okay?

A Uh–huh.

THE COURT:

Excuse me, Mr. Marvin, the jury is told to disregard that last statement.

Q Okay. And at the — at the — around in the middle of that page you said, "He wouldn't explain why or he — he just wouldn't explain nothing. He just said that he shot three people. I done F'd up. I'm not going back to jail, Gayle." That's you, right?

A Yes.

Q "Robert, you need to turn yourself in." "I'm not going back to jail." Do you remember him saying that to you?

A I — Like I said, I believe — you know, like I said, from the time, you know, is that I don't know did he say that to me or, you know, or did I — had I talked to his brother because like I say, you know, I — the on-

ly thing I can tell you that I know for fact is that he just said that he just "F'd" up.

Q Okay.

A Now, you know, like I said, when I'm doing my statement, you know, I — I been drinking and I could have everything backwards.

Q Really?

A Yeah.

Q You don't think that your statement that you gave back in May the 8th, two days after this happened, was more accurate than what you're testifying to this jury today?

A The only thing I'm saying is that, you know, he did say, you know, that he "F'd" up, but that's all he said. And he wouldn't explain what he had F'd up.

Q Okay. Do you see at the bottom of that page where the detective asked you a question and your answer said, "I believe that" — It's the very next to the last — "because he said he's not going to jail. That, well, you know, the only thing I can think of is that you must be fixing to kill yourself." It's on the next page. That's the paragraph right there, the last one where you answered "Uh, I believe that." Would you read that?

A Are you saying — where you're saying somebody will take — take his life"?

Q Yes. Or after that.

A What you want me to read that?

Q Yeah. The question — the answer that you gave that begins with, "Uh, I believe that." Can you read it out loud?

A "Uh, I believe that once the police back him in a corner 'cause he said he's — he's not going to jail, that's, well, you know, the only thing I can think of is that you must be fixing to kill yourself."

Q Okay. How many times did he say that night, Mr. Houston, that he F'd up?

A I would say probably about three — three times.

Q How was it that you came to pick him up at some train tracks in downtown Shreveport the night of June the 5th?

A His brother — and like I say, we were coming up the street, his brother was crying. Me and my brother was trying to see what was going on and he didn't know what was going on and so we decided to jump in the car with his brother.

Q Okay. Where did y'all take Robert?

A As far as I know that we got on interstate, went down Linwood and after that I — I don't know.

Q Okay. But I mean did you drop him off at a residence or somewhere?

A I don't know.

Q You just wasn't paying attention?

A No, I wasn't paying attention.

Q Did you drive him to another state or did you just drive down, did you say Linwood?

A Just Linwood.

Q Okay. And at some point down Linwood just let him out?

A I believe so. The next thing I know that I was back home. Me and my brother we were back in my mother's house and Spartacus was in the driveway and I was heading out to work.

Q Okay. Where do you work, Mr. Houston, or where did you work then?

A I work at Foremost Dairy.

Q Okay. And you've known Robert all your life?

A Yes.

Q All right. Mr. Houston, you have a criminal history, do you not?

A Yes.

Q Okay. You have a conviction for Misdemeanor Battery?

A Yes.

Q And is that all? Other than traffic tickets?

A That's all I can think of it.

Q Okay.

A You know, a fine or something.

Q Sir?

A A fine.

Q What, you paid a fine on the battery?

A Uh, resisting arrest or something way back.

Q Oh, okay, I'm sorry. Do you have a charge of Misdemeanor Interference With a Police Officer?

A Yes.

Q And that's – you paid a hundred dollars and fifty – a hundred dollar fine and court costs of $76.00?

A No, three hundred and some-odd dollars.

Q Was that – Okay. Well, does it sound more accurate to say that you paid a hundred dollar fine on that charge, $76.00 in court costs and a hundred dollars on an obstruction of an officer charge. That would be $276.

A Yeah, I would say so.

Q Anything – any other run-ins with the law other than that? Other than traffic tickets? I see you have some traffic tickets on your record.

A No.

Q Okay. Okay, thank you, Mr. Houston. Mr. English may have some questions for you.

THE COURT:

Mr. English.

CROSS-EXAMINATION

BY MR. ENGLISH:

Q Good evening, Mr. Houston. My name is Larry English and I represent Mr. Robert McCoy. You indicated in your testimony that when you – when y'all picked Robert up that night he was normal, correct?

A Yes.

Q Do you have the statement in front of you?

A Yes.

Q I'm going to read it to you and I can point it out. Question: "Did you – did – did he tell you where he shot them at?" And your answer was: "No, when we picked him up, I could still remember, you know, he was crying. He was crying." Do you remember telling the police officers that?

A Yes.

Q And so, is your testimony – After reading this statement do you still say Robert was acting normal or was he crying that night?

A He was acting normal.

Q So he wasn't crying?

A You know, crying and – Basically, he was just normal – normal to me.

Q Okay. So, listen, I mean I don't care which one, okay. All right, now, so –

THE COURT:

Mr. English, make sure your mic – Mr. English, make sure –

MR. ENGLISH:

Let me get my mic. I'm sorry.

Q I don't care which one.

THE COURT:

Wait to make sure your microphone's on.

MR. ENGLISH:

Let me put my microphone on. I'm sorry. Hold on, I'm going to put my mic on.

Q Now, let me ask you again. On a direct question from Mr. Marvin, you stated that Mr. McCoy was acting normal, correct?

A Yes.

Q But in your statement to the police you told him he was crying, correct?

A Yes.

Q Which one was it?

A Crying.

Q He was crying?

A Yeah.

Q And you stated on one of your answers and Mr. Marvin asked you about that is that I believe he– he's going to try to take his life or he wants somebody to take his life. Do you remember telling the police officers that?

A Uh, I don't know.

Q This is your statement, right?

A Yeah.

Q Okay. And so, the answer – Do you have any reason to dispute that you told the police officers that night that's on this piece of paper? Are you denying that you told the police officers that I believe that he's going to try to take his life or he wants somebody to take his life? Do you remember making that statement?

A No, I can't remember.

Q Okay. The fact that you don't remember making that statement are you – Let me ask this differently. Are you denying making that statement?

A No, I just can't remember.

Q Okay. All right. And you were subsequently asked when you say somebody take his life what do you mean? You said I believe that once the police back him in a corner because he said he's not going to jail, that, well, you know, that the only thing I can think of is that

you must be fixing to kill yourself. Do you remember telling the police that?

A I believe that's when I talked– I think I was talking to his brother and we had a conversation once we found out that –

Q No. No, this – this statement was taken on 6-04-08, okay?

A Uh-huh.

Q At nine o'clock. That's wrong? Okay, I'm looking at – I'm looking at what I have here on my things.

MR. MARVIN:

That's the date of the–

MR. ENGLISH:

Okay. All right. I apologize.

MR. MARVIN:

The very first line of it was taken – No, I'm sorry.

MR. ENGLISH:

It was taken 6-04-08, okay.

MR. MARVIN:

It was taken May the 8th.

MR. ENGLISH:

I'm sorry.

Q All right, I'm sorry. I'm looking at it right here. It was taken 5-08. I apologize. That was – you gave that statement three days after you had come in contact with Mr. McCoy.

A Uh-huh (affirmative).

Q Now, I'm going to ask you again did you say to the police that – that you believed that Mr. McCoy said he wasn't – that he wasn't going to jail and that you know the only thing that I can think of is that you must be fixing to kill yourself? Do you remember giving that statement?

A I can't remember.

Q Do you deny giving the statement?

A No, I don't deny it.

Q Okay. All right. Now, hold on a second, Mr. McCoy's got some questions he wants me to ask you. Let me – let me – let me – let me ask you a question because I think it's important to put this on the record. Were you ever threatened with being charged in this case?

A As far as –

Q Let me ask you this directly. Did the Bossier City Police Department threaten to charge you with accessory to a capital murder in this case?

A Yeah, I was going to be charged with accessory. Yes.

Q That's what they told you?

A Yes.

Q Okay. And you subsequently gave a statement, correct?

A Yes.

Q Now, did you lie to the Bossier – What you said in this statement, now, even though you don't remember it, did you lie to the police department?

A No.

Q All right. Now, Mr. McCoy, wanted me to ask you some questions. Did you tell Robert's father that the detectives coached you to make all of these statements and the subsequent – Well, everything that Mr. McCoy – that Mr. Marvin has stated that you said in this statement and I've said that you said in this statement, Mr. McCoy wants to know did you tell his father that the detectives had coached you and you made all of this up?

A No.

Q Okay. Mr. Houston, you indicated that you were drinking, correct?

A Yes.

Q And the – the – This is a legitimate question. The fact that you were drinking, would that have clouded your recollection in any way of what Mr. McCoy did or did not do?

A No, because –

Q Well, it – Go ahead. I'm sorry.

A I would say no because –

Q Let me ask you this question.

A All right.

Q Was – was Robert's brother upset? Spartacus?

A Yeah.

Q And didn't you – and didn't you tell the police that Spartacus was crying?

A Yes.

Q Did you tell the police that?

A Yes.

Q So even though you were drinking these – you would not – you tried to recollect as much as you could?

A Yes.

Q Did – did Mr. McCoy help you get a job at Foremost Dairy?

A Not that I know of.

Q And the last question Mr. McCoy wants to ask you is that is it safe to say that you just don't remember because you were drinking?

A I would say to some – to some extent.

Q So, I'm going to – so you don't – so what you told the police is not correct because you don't really remember and you were drinking? Is that what your testimony is now?

Q No. I would say some of the things that I – that I did – that I mentioned was correct I believe.

MR. ENGLISH:

No further questions.

* * *

**SHARON MOORE**

**CALLED AS A WITNESS**
**BY COUNSEL FOR THE STATE,**
**WHO, AFTER HAVING BEEN DULY SWORN,**
**WAS EXAMINED AND TESTIFIED AS FOLLOWS:**

**DIRECT EXAMINATION**

BY MR. MARVIN:

Q would you state your name, please, ma'am?

A Sharon Moore.

Q Ms. Moore, I know you don't want to be here, is that right?

A That's right.

Q Do you —

THE COURT:

You've got to speak up, please, ma'am.

Q I'm sorry. Do you spell your last name, M-o-o-r-e?

A Yes, sir.

Q How do you know him?

A I met him at the casino.

Q Okay. Did he — you and he have a relationship back in '08?

A Yes, sir.

Q Okay. Ms. Moore, did — did Robert McCoy contact you on or about the afternoon of May the 5th of 2008?

A Yes, sir.

Q Okay. What did he want?

A Like what?

Q I said what did he want? What did he ask you for?

A What did he ask me for?

Q When you talked to him did you talk on the phone or did you talk in person?

A In person.

Q Okay. What did Mr. McCoy ask you to do for him?

A Well, he asked me to buy him some bullets because he — he stayed at my house that Sunday night.

Q Okay. What did you say about bullets?

A He asked me to buy him some bullets.

Q Did he want —

A He said he was going on a — he was working on the railroad and he needed the bullets because he was going in a bad neighborhood to work in.

Q Okay.

A And he needed the bullets. And I —

Q Okay. Did he — did he — did he try to borrow money from you to buy bullets or did he ask you if you had any bullets?

A Uh-uh (negative). He asked for money.

Q Okay. And did you give him any money?

A No, sir.

Q Okay. And he told you that he needed bullets because the train that he worked on went in a bad neighborhood?

A Uh-huh (affirmative).

Q Okay. What happened after that?

A Well, after that he — my mom, she called and she wanted me to take her to Wal-Mart. So he took me to my mom's house and dropped me off and we went to Wal-Mart and he left.

Q Okay. What time — what — what Wal-Mart was that?

A In Minden.

Q The one in Minden. Okay. Did — did he talk any more about bullets after that conversation — first conversation you told us about?

A Uh-uh (negative).

Q Okay. When was the next time you heard from Robert?

A Well, he called me that next night and wanted to come back up to the house to see me. And, well, he was telling – he was telling me he was going to bring me some money. He had got a check. He was supposed to be bringing me like $400, you know, from the check. And I said okay. And then another — he called again and he said he had shot someone.

Q Okay. Did he tell you who?

A He said it was a bum — somebody shot the — robbed him on the tracks. And I said, Robert, did you call the police and tell the police about it and he said, yeah. And so, I turned on the news, you know, thinking I'm going to see the – see it on the news, but I didn't see that. I saw three people had been shot.

Q Did you ask him about that?

A Uh-huh. He said he didn't know nothing about that.

Q Okay. He told you he shot a bum on the railroad track?

A He said somebody tried to rob him and he shot them.

Q Okay. Did he ask to come back to your house that evening?

A Yes, sir.

Q And what did you tell him?

A I told him, no, I didn't want to get involved with that.

Q Did y'all talk anymore about either the shooting he told you about or the shooting that you saw on the news?

A No, sir. He said he didn't have — he didn't know nothing about that.

Q Okay. The person that he told you he shot did he tell you where he shot him?

A In the head.

Q In the head. Did you ask — You said he told you the man was dead or did you ask him was he — did he die?

A I didn't ask. I just — I didn't want to get — I just didn't want to get involved in it. I told him he needed to contact the police about it.

Q He – he said what about the police?

A He said he had called the police and told – and told police about it.

Q Okay. Do you remember telling Detective — Detective Waites at the Bossier Police Department that you said, quote, "I said two people got shot and one was, uh, wounded —

A Yes, sir.

Q – was — was sent to the hospital?"

A Yes, sir.

Q And then he answered you with, "Uh-huh."

A Uh-huh (affirmative).

Q And then you replied, quote, "And he got quiet then when I said that?

A Yes, sir.

Q Did you suspect that he was the person that killed the three people that you had seen on the news?

A I didn't suspect it until the next morning when I woke up. When the story, The Young and the Restless, was on I seen the news and his picture came on the news and I just — I lost it because I — I couldn't believe he did something like that.

Q Okay. Okay, thank you, Ms. Moore. They may have some questions for you.

THE COURT:

Mr. English.

MR. ENGLISH:

Just a minute, Your Honor.

MR. ENGLISH:

No further questions, your Honor.

THE COURT:

All right. Ms. Moore, you may step down. You're just not to discuss this case until this case is

Mr. MARVIN:

* * *

**[DIRECT EXAMINATION OF CRAIG ROBERTS]**

Q Okay.

Mr. MARVIN:

Continue on, please.

**(PLAYING OF VIDEO CONTINUED)**

**(PLAYING OF VIDEO CONCLUDED)**

Q Okay, now, at this point, Officer Roberts, your suspect there is in in custody, correct?

A That is correct.

Q Okay. Subsequent to this is when you searched the compartment of the eighteen-wheeler?

A Correct.

Q Okay. I'm going to show you what has been accepted into evidence as State's Exhibit 74 and ask you if you can identify that?

A Yes, I can.

Q And what is that?

A It's a .380 handgun that was found in the cab of the truck.

Q Okay. And that is the one you found?

A Yes, it is.

Q Was it loaded?

A Yes, sir, it was.

Q Was the safety on?

A No, sir, it was not.

Q So at the moment in time you found that gun if a person had put their hand on the trigger it would have gone off?

A That is correct.

Q Okay. Thank you. Officer Roberts, I'm going to show you

Q Okay. Seventy-seven, what is that?

A That is the license plate on the trailer of the truck.

Q Seventy-eight.

A This is the truck again from the front.

Q Seventy-nine? And I'm going to run through these fairly quickly.

A That is the open passenger side door of the cab of the truck.

Q Okay. And if you can, Officer Roberts, and when you touch that screen right there it will make a mark on all these – every screen. The jury has screens in front of them.

A Okay.

Q Tell us where you found the gun.

A The handgun –

Q Or show us where you found the gun.

A – was located right behind this seat right there.

Q Okay. Was it on the floor?

A Yes, sir, it was.

Q Was it in a holster or was it in a duffle bag or a sack or –

A It was laying on the floor in plain view. If you would actually step up a little closer than this you could see the gun laying right on the floor.

Q Okay. All right.

MR. MARVIN:

That was seventy-nine, right?

MADAM CLERK:

That was seventy-nine.

MR. MARVIN:

Yeah, okay.

Q Eighty.

A That is the sleeper area of the cab.

Q Eighty-two?

A That –

Q Okay. Now, did you take this photograph?

A Yes, sir, I did.

Q Okay. Did you take it before you moved that gun?

A Yes, sir, I did.

Q Okay. So what's propping that gun up?

A It's a twelve-pack of Mountain Dew.

Q Okay. And that's exactly how you found that gun?

A Exactly how I found it.

Q Okay. Eighty-three? Did you take that picture?

A I did not take that picture.

Q Okay. Eighty-four. Was this picture taken at another location?

A This picture was taken at the station after I seized the handgun out of the truck.

Q Okay. And is the safety -- I see the red dot. Can you circle that for the jury? Okay. And to a police officer what does it mean when a firearm has the red dot showing?

A It means the gun is ready to fire.

Q There's nothing else you have to do but pull the trigger?

A That's correct.

Q Okay. Eighty-five. That's just another view from the opposite direction?

A Correct.

Q Eighty-six. And what is that?

A That is the view of the same handgun with the ammunition removed from the barrel and the magazine.

chamber.

Q Okay. And you removed them?

A Yes, I did.

Q Okay. Eighty-seven. That's just a close-up showing the serial number of the gun?

A That's correct.

Q Eighty-eight? Where did you find that?

A I found that in the wallet removed from Mr. McCoy.

Q Okay. Was it on his person?

A Yes, it was.

Q Eighty-nine?

A That is a birth certificate that was in the wallet.

Q Ninety?

A That is a copy of a pay stub that was also in the wallet.

MR. MARVIN:

Can you zoom in on the payee? Okay.

Q And so, Officer Roberts, if you were looking for Robert McCoy this confirmed that you found the right guy, correct?

A Yes.

Q Ninety-one?

A It appears to be an insurance card to a Robert McCoy also found in the wallet.

Q Ninety-two?

A That is a respirator fit test card to a Robert McCoy also found in the wallet.

Q Ninety-three?

A It's a VISA card to a Robert L. McCoy, II, also found in the wallet.

Q Ninety-four?

A It's a Social Security card to a Robert Leroy McCoy, II, also found in the wallet.

Q Ninety-five?

* * *

**CROSS-EXAMINATION [OF CRAIG ROBERTS]**

BY MR. ENGLISH:

Q Good evening, Officer.

A Good evening, sir.

Q My name is Larry English. I represent Mr. Robert McCoy in this case. How are you handling this heat?

A It was kind of a shock when I arrived.

Q It's pretty – I've got a secret for you. It's a shock for everybody in Louisiana too. But we shall get through it. I just – I just have a few questions for you. So you were there on the scene when Mr. McCoy was apprehended, correct?

A That is correct.

Q Did Mr. McCoy resist in any way?

A No, sir.

Q No threatening – no threatening, nothing, he just submitted?

A That's correct.

Q And the weapon was cocked and found behind the seat as you testified, correct?

A That's correct.

Q And Mr. McCoy – I mean was the weapon readily available for Mr. McCoy if he had wanted to get it?

A I believe so, yes.

Q Yes. And – and as to your knowledge he made no attempt –

A That's correct.

Q – to secure the weapon? Do you know an Officer Richard Smith?

A The name does not –

Q He works for the Idaho – Are you – are you – Is it Nez Perce County?

A Nez Perce County, correct. Lewiston is the county seat of Nez Perce County.

Q Okay. All right. And this is in beautiful Idaho?

A That's correct.

Q Okay. Do you fish?

A Yes, sir, I do.

Q All right. Mountain — mountain ski and do all of that?

A Yes, sir.

Q Okay. Great life, huh?

A Yes.

Q All right. Are you aware that on 5-12-08 Mr. McCoy was found in his jail cell hanging from a sheet where he had tried to commit suicide?

A I am aware of that, yes.

Q Were you there personally?

A No, sir, I was not.

Q But you were told about it?

A That's correct.

Q And that was a part of the — the sheriff's department reports?

A That's correct.

Q And I believe he was — Do you know an Officer Daniel Levitt?

A Yes, I do.

Q And Officer Daniel Levitt put in his report that EMS was called and Mr. McCoy was rushed to St. Joseph Regional Medical Center?

A If that's what he put in his report. I —

Q Is that — is that in Idaho?

A Yes.

Q Okay. All right.

A St. Joseph Medical Center is in Lewiston.

Q Okay. And he was found unconscious in the jail cell according to the officer's report, was that what you heard?

A I just heard that he tried to hang himself and he was transported to the hospital.

Q And you have no reason to doubt that if the officers put in their report that he was unconscious, correct?

A I have no reason to doubt that, no.

Q Okay. And are you aware that when Mr. McCoy was brought back to the county jail he was placed on suicide watch? Are you aware of that?

A No, sir, I'm not.

Q Okay.

MR. ENGLISH:

Your Honor, I have just —

Q Mr. McCoy wanted me to ask you a few questions. How long have you been a Lewiston police officer?

A Eleven years.

Q In your line of duty have you ever come across a case like this?

A Not a triple homicide, but I have worked homicides before.

Q Okay. So there — in your report you stated that you — it's been — the evidence is and testimony is that you retrieved a .380 firearm out of the truck?

A That's correct.

Q Did the — did the Lewiston Police Department take any fingerprints?

A Not to my knowledge, no.

Q There were two people in the car — in the truck, correct? There was the driver and Mr. McCoy?

A That's correct.

Q What evidence do you have that the weapon didn't belong to the truck driver?

A I briefly interviewed him at the scene and he denied any knowledge of the gun.

Q Again, you never — you never saw Mr. McCoy with the weapon, you just simply pulled it from the back of the vehicle, correct? From the back seat of the vehicle, correct?

A That's correct.

Q Okay. And you've already — and you just testified that the other individual in the truck stated that he didn't have the weapon?

A The driver did not have the weapon.

Q The driver did not have a weapon. And he did not — that was not his weapon that was retrieved from the vehicle?

A That's what he told us.

Q And this weapon was subsequently sent to Bossier Parish, correct?

A That is correct.

Q And that's the weapon that you just testified about right there?

A Yes.

Q Okay. Why — why — why did you only arrest Mr. McCoy and not the truck driver seeing that the truck driver was in the weapon with a truck — the weapon was in the truck driver's truck?

A Because the weapon was underneath or behind the passenger seat and not the driver seat.

Q Mr. McCoy wants me to ask you that if you did not retrieve the weapon from — from him — if you did not retrieve the weapon from him why did you enter it into evidence as being belonging to him?

A Because the information we received from the state police was that he was — that Mr. McCoy was possibly in possession of a .380 handgun.

Q I mean I'm going to ask you this question. I don't know whether or not you can answer it. On 5-13-08 a magistrate at the Lewiston Courthouse dismissed all potential misdemeanor charges against Mr. McCoy. Knowing that then, why on 5-14-08 did you and other Lewiston police — law enforcement people send dismissed evidence down to Louisiana to prosecute Mr. McCoy? Can you answer that question?

A No, sir, I cannot.

Q All right. I'm almost through, but I need to ask you this question, okay, Officer?

A Uh-huh.

Q Are you familiar with gun ranges?

A With gun ranges?

Q Yes. Where you practice at?

A Yes, sir, I am.

Q If one goes and takes a firearm to a gun range and fire it and retrieve the projectile and the casing will the elements match the gun? Can you answer that question?

A No, I cannot.

Q Okay. Did you place the gun in the truck and turn it — turn around and pretend that Mr. McCoy had the weapon?

A No, I did not.

Q Did you and your fellow officers beat Mr. McCoy and accuse him of committing suicide?

A No, we did not.

Q And you stated that you did not see Mr. McCoy's suicide attempt, correct?

A That's correct. I did not see it.

Q Thank you and I hope you stay cool, okay.

THE COURT:

Any redirect, Mr. Marvin?

MR. MARVIN:

No redirect, Your Honor, and the State rests its case.

**(STATE RESTS)**

All right, sir, you are excused at this time. Just do not discuss this case until the termination of this trial, please.

MR. ROBERTS:

Yes, sir. When you say excused, free to go?

THE COURT:

Free to go back to Idaho where it's cool, sir.

MR. ROBERTS:

Thank you, sir.

THE COURT:

Yes, sir. All right. Ladies and gentlemen of the jury, I'm going to break at this point. It is ten till five in the afternoon. We will start back in the morning and we'll start at nine o'clock in the morning. I am instructing you that you are under sequestration at this time. You're not to discuss this case with anyone. You're not to discuss this case around anyone. You're not to even talk to each other about this case. I hope that you have a good night. I hope that you have a good meal and get some rest. And we'll see you at nine o'clock in the morning. All rise for the jury.

MR. SHERIFF:

All rise for the jury.

**(JURY ESCORTED OUT OF COURTROOM)**

THE COURT:

The hallway's clear?

MR. SHERIFF:

Yes, sir.

THE COURT:

Mr. Marvin, is there anything I need to take up outside the presence of the jury, sir?

MR. MARVIN:

No, sir. We have — I guess this is your final jury charge.

THE COURT:

Mr. Marvin, could I get you next to a microphone, please, sir.

MR. MARVIN:

Is this the final jury charge that you —

MR. MARVIN:

Yes, sir, that's the proposed final jury charge. Yes, sir.

MR. MARVIN:

Okay. I got it. I'll look at it tonight.

THE COURT:

Mr. English, you do have that jury charge?

MR. ENGLISH:

I've got it in my hand, Your Honor.

THE COURT:

All right. Then we will meet tomorrow if we need to. Anything else, Mr. Marvin?

MR. MARVIN:

No, sir.

THE COURT:

Mr. English?

MR. ENGLISH:

No, Your Honor.

THE COURT:

Then Court will stand adjourned.

**(COURT ADJOURNED)**

* * *

**EXCERPTS OF AUGUST 4, 2011 TRANSCRIPT RE GUILT PHASE OF TRIAL**

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**THURSDAY, AUGUST 4, 2011**

**(COURT CONVENES)**

THE COURT:

Good morning.

MR. MARVIN:

Good morning, Your Honor.

THE COURT:

All right, Mr. Marvin, you had rested as of yesterday afternoon, is that correct, sir?

MR. MARVIN:

We did, Your Honor.

THE COURT:

All right. Mr. English?

MR. ENGLISH:

Yes, Your Honor.

THE COURT:

Are you ready to proceed, sir?

MR. ENGLISH:

Yes, Your Honor.

THE COURT:

And I will note for the record that Mr. McCoy is present with you in the courtroom. Is that correct, sir?

MR. ENGLISH:

That's correct, Your Honor. I have spoken to Mr. McCoy, Your Honor, and Mr. McCoy wishes to testify on his behalf. I have advised Mr. McCoy of his rights and I have advised him that he does not have the right to testify —he cannot be compelled to testify and that if he does not testify — testify the jury is not to hold that against him. I have advised him that if he does testify he is not to perjure himself; that he could be subsequently indicted for perjury. And I have advised him that if he does indeed choose to testify today that the District Attorney's Office, Mr. Schuyler Marvin, who is seating here does have the right to cross-examine him and will most likely do that.

THE COURT:

All right. Mr. McCoy, you were — have been in the courtroom the entire proceedings and you have heard all the evidence. Do you understand — And I'm just going to ask you these questions. Do you understand what Mr. English has told you? Is that correct? And be sure that microphone is in front of you, please, sir.

MR. McCOY:

Yes, Your Honor.

THE COURT:

All right.

MR. McCOY:

Yes, Your Honor, I do.

THE COURT:

All right. And I have advised you on numerous occasions that you have the right to remain silent in these proceedings; that you cannot be forced to testify in any way; and that you cannot be compelled to testify; and that you have the right to remain silent. And you understood that, is that correct, sir?

MR. McCOY:

Yes, Your Honor, I do.

THE COURT:

All right. You understand that anything that you say can and will be used against you possibly in this court if it is not favorable to your position? Do you understand that?

MR. McCOY:

Yes, Your Honor.

THE COURT:

All right. And you have discussed this with Mr. English, is that correct?

MR. McCOY:

Yes, Your Honor.

THE COURT:

All right. And you understand that if you take the stand that you are only to answer the questions asked to you and that you can be held for perjury if it's determined that you do not tell the truth? Do you understand that?

MR. McCOY:

Yes, Your Honor.

THE COURT:

And you're doing this freely and voluntarily, is that correct?

MR. McCOY:

Yes, Your Honor.

THE COURT:

All right. Then I have questioned you and you understand that you are not compelled to testify and that none of this can be — if you do not testify that nothing can be held against you? Do you understand that?

MR. McCOY:

Yes, Your Honor.

THE COURT:

All right. Then, Mr. McCoy, I will call back in the jury. And we are ready to proceed, Mr. English?

MR. ENGLISH:

We're ready to proceed, Your Honor.

THE COURT:

All right. All rise for the jury, please.

MR. SHERIFF:

All rise for the jury.

**(JURY ESCORTED INTO COURTROOM)**

MR. SHERIFF:

All jurors are present, Your Honor.

THE COURT:

You may be seated. Good morning, ladies and gentlemen. I hope that you had a good nights' rest and we

are starting with our trial again this morning. The State rested as of yesterday afternoon and now I will recognize Mr. English for his case.

MR. ENGLISH:

Your Honor, at this time we would like to call Mr. Robert McCoy to the stand.

THE COURT:

Mr. McCoy, if you'll come forward, face the clerk and be sworn, please, sir.

**(DEFENDANT SWORN BY THE CLERK)**

THE COURT:

You may proceed, Mr. English.

MR. ENGLISH:

Yes, Your Honor, just a second. Let me cut my cell phone off, Your Honor, just to make sure. I don't think I cut my cell phone off. I don't want it to —

THE COURT:

Mr. English, that would not be good.

MR. ENGLISH:

Then you take my cell phone and that would just be bad.

THE COURT:

I may take you.

MR. ENGLISH:

And that would just be bad, Judge.

THE COURT:

Yes, sir.

**ROBERT LEROY MCCOY, II**

**CALLED AS A WITNESS**

**BY COUNSEL FOR THE DEFENDANT,**

**WHO, AFTER HAVING BEEN DULY SWORN,**

**WAS EXAMINED AND TESTIFIED AS FOLLOWS:**

**DIRECT EXAMINATION**

BY MR. ENGLISH:

Q Good morning, Mr. McCoy.

A Good morning, sir.

Q State your full name for the record.

A My name is Robert McCoy, II.

Q And where do you live?

A Well, now I currently reside at Bossier Max, but —

Q Before Bossier Max?

A Off of — 5705 East Texas Street.

Q Okay. I want to ask you something about yourself, Robert. Okay?

A Yes, sir.

Q Where were you born at?

A Shreveport, Louisiana.

Q In what year and how old are you?

A I'm thirty-seven,

Q And tell me about your parents. Who's your mother?

A My mother is Mary McCoy and my father is Robert McCoy, Sr.

Q And your mother was sitting in court for a couple of days, correct?

A Yes, it is.

Q Do you know why your mother has not — and your father has not been in court the last couple of days?

A Well, they're not here today because my mom has decongested (sic) heart failure and some of the pictures that was vindicated on the screen she can't take.

Q And so your mother has not been here because of health reasons where she simply — it is not in her best interest physically for her to be subjected to a lot of stress, correct?

A That's correct.

Q And how many siblings do you have?

A Four.

Q And where do you rank — where do you rank in that? Are you the oldest, the youngest, the middle child, or as we call it in Cotton Valley the knee baby?

A No, I'm the —

Q Where are you at?

A I'm the second oldest.

Q Okay.

A If you — if you're speaking of children from my mom there's five of us.

Q Five of y'all?

A Yes.

Q Okay. And where did you grow up at? Which neighborhood?

A In Eden Garden.

Q In Eden Garden. And what does your father do?

A My father is, as we say, a constructioner.

Q Does construction work?

A Yes, sir.

Q And your mother?

A She don't do anything right now because of her health conditions.

Q Okay. When you were growing up — when you were growing up did both of your parents work or did your mother stay home?

A No, they both worked.

Q And where did your mother work at?

A My mom did home health.

Q Okay. And your father was doing construction?

A That's correct.

Q And where did you go to elementary school at?

A Eden Garden.

Q Eden Garden Elementary. Do you remember your childhood, your early days?

A Yes, I do.

Q How would you describe them?

A It was fair.

Q When you say fair, what do you mean?

A Well, I really didn't have anything to, as I would say, want for because as long as I had my mom and dad I had everything.

Q Okay. You — you're grown now and you — you have an understanding. Would you say — were your parents — economically were your parents, for lack of a better word, did you grow up -were they — financially were they poor, working class, middle class? How do you think of — how would you rate your childhood economically?

A I would say they were working class. But, you know, like everybody struggled to go through periodical processes, but I would say working class.

Q There was always food on the table?

A Yes, it was.

Q Always a roof over your head?

A Yes, it was.

Q How would you describe your — And where did you go — where did you go to junior high school?

A Ridgewood Middle.

Q Ridgewood Middle School?

A Yes, sir.

Q What year was this? Do you remember?

A From I think '84 — no, '85 to '88.

Q And how was that?

A It was well. I participated in a lot of sports and —

Q That's — tell me — tell me what you participated in?

A Track and field and football.

Q What did you run?

A I ran the four-man — Well, hundred mile, four hundred mile relay and some with triathlon.

Q Triathlon is — Help me out. Triathlon is where you do a whole lot of different events, correct?

A Well, no, it's when you run around the track probably about twelve to fourteen times to be the first competitor on a time consuming scale.

Q Okay. And you played football?

A Yes, I did.

Q And what position did you play?

A Running back and cornerback.

Q Well, here's the question. Were you any good?

A Very good.

Q And where did you go to — Did you — did you receive any athletic honors?

A Yes, I did. I received several — well, several honors. I received two MVPs in football, one in track and field, and then honor scholarships for excellent achievement in educational proceedings.

Q Okay. So how did you do academically in junior high school

A I did well.

Q What's well? I mean I was a lousy "C" student. So, what's well?

A "B" and above.

Q Okay. All right.

MR. MARVIN:

Your Honor?

THE COURT:

Yes, sir.

MR. MARVIN:

At some stage in this trial that type of evidence might be relevant, but as to this we're only here to determine if he's guilty, guilty of a lesser crime or not guilty. A little bit of background is fine, but —

MR. ENGLISH:

I'll move — I'll move on, Your Honor. I'll — I'll — I'll just ask the Court to indulge me just a few more minutes and then I'll move on.

Q Okay. And where did you go to high school?

A C. E. — C. E. Byrd High School, sir.

Q Oh, you played football and track there?

A Well, I played football there.

Q Football. Running back?

A Yes, sir.

Q And how did you do?

A In the newspaper every week, player of the week.

Q Okay. And since —

THE COURT:

All right, Mr. English, I'm going to —

MR. ENGLISH:

Okay, that's fine, Your Honor.

THE COURT:

— sustain that objection at this time.

MR. ENGLISH:

I'll — I'll move on, Your Honor.

Q Mr. McCoy, let's talk about the evidence that the State has presented here today. Can we do that?

A Yes, we can.

Q You heard Officer Humphrey testify that a warrant was issued for you for aggravated battery on Yolanda Colston. Did you hear that?

A Yes, I did.

Q Did you commit aggravated battery —

A No, sir.

Q — on Mr. Colston?

A No, sir.

Q You didn't?

A No, sir.

Q On Ms. Colstson, I'm sorry. Now, let's try to do this chronologically. You heard Sharon Moore's testimony yesterday, correct?

A Yes, I did, sir.

Q Sharon Moore testified that you asked her to — for money to buy bullets. And your testimony is what?

A Why would I ask her for money to buy bullets when I don't own a gun? Why would I ask her for money to buy bullets when I have no intentions on doing anything? I — I have a job. I have money. I make twenty-three — I mean I make $2200 every two weeks.

Q And so, it is your testimony that you never asked her to do that?

A I never asked Sharon for any money. I virtually speak with Sharon on occasion. Sharon is a nice girl. Sharon is controlling. But as far as me asking Sharon for money for bullets and stuff, that is a concocted story just like they've vindicated Mr. Houston to make stories. The District Attorney's Office is very powerful when it come to dictating peoples' moves — dictating peoples' moves.

Q Well, I want to talk with you about that for a second. But let me ask you this. Ms. Moore indicated that you and her were having a relationship, is that true?

A I was in a relationship with Ms. Moore prior to my advancements with my wife. When I got very serious with my to-be wife, me and Ms. Moore had no more dealings together.

Q Ms. Moore's testimony was that you spent the night with her the night before the alleged — the murders took place. And are you denying that?

A Most definitely. There —

Q And you're denying Ms. Moore's testifying that you never asked her to buy bullets?

A Most definitely.

Q Okay. Well, let's stay on Ms. Moore.

A Yes, sir.

Q Ms. Moore then testifies that you called her the next day and told her that you — well, Ms. Moore indicated that you wanted to purchase the bullets because you were working for the railroad and you were going in a dangerous area. Did you tell Ms. Moore that?

A No, sir. The railroad does not require firearms on any of their machinery. They does not require firearms

on any property aspects of theirs. They have federal authorities that vindicates everything for them. I have never told Ms. Moore no such thing.

Q And Ms. Moore testified that you called her the next day and told her that you had shot somebody. You heard that testimony yesterday?

A I sure did.

Q Is that true?

A No, sir.

Q You never called Ms. Moore, Mr. McCoy?

A I called Ms. Moore after she left several messages on my machine telling me that her little boy that she calls "Stink", he's a real nice little baby, had got ran over by a car. Her sister backed over the baby. And we corresponded from that point. But as far as me telling —

Q Wait, tell me what — what day and time did Ms. Moore call you and tell you that her child had gotten run over?

A I would say —

Q Was this — was this on — was this on the — was this — did this take place on May the 7th — I'm sorry, on May the 4th, 2008, or May the 7th, 2008?

A No. Ms. Moore had initially started calling me from the 4th until I just broke conversation with her probably on the 8th or the 9th.

Q Okay. So — so let me ask you this question. You indicated that you and Ms. Moore had a relationship but you cut that relationship off once you and your wife got serious. Why was Ms. Moore still calling you?

A I mean that's Ms. Moore's prerogative. I mean I can't tell her to stop calling me, you know, if — you know, I'm a friend. Friends talk to friends.

Q Okay. And Ms. Moore's testimony that you called her and told her that you had shot a bum is not true?

A No, sir.

Q It's not true?

A No, sir.

Q And Ms. Moore indicated that she checked her television and saw that two people had been shot and one taken to the hospital and the next time she called you, you told her — she asked you whether or not you were involved in that and you said you weren't; you said that you had only shot a bum who had tried to attack you.

A I have never —

Q Did you hear that testimony?

A Yes, sir. I have never had such conversation with Ms. Moore about anything like that.

Q And — and Ms. Moore indicated she asked you where did you shoot the individual and her testimony was you said in the head. Do you remember?

A I — I have had no such conversation with Ms, Moore about that.

Q Can you tell the jury why Ms. Sharon Moore would come into this courtroom under oath and lie?

A The same aspects that Mr. Gary Houston did. When you —

Q I'm sorry?

A The aspects in which Mr. Gary Houston did. When you get involved with circumstances and situations and

you put yourself in the aspects of wanting to be a part of a lot of things like everybody has been throughout this whole proceeding — people have vindicated that I was knocking on the window at their house at six o'clock in the morning when I was never in the state. People have vindicated that they seen me going from place to place in Shreveport —

Q Robert, let me — Robert, let me ask you — Robert, let me ask, please, stay on the question that I'm asking.

A I am.

Q The question that I'm asking you is why do you believe Ms. Moore came into this courtroom yesterday and under oath and made those statements against you?

A Well, the thing is you seen Ms. Moore did not want to come here. Ms. Moore vindicated and, if I'm not mistaken, the defense — counsel, Mr. Schuyler Marvin vindicated that she did not want to be here today.

Q So why do you think she came?

A Because she was forced to come.

Q And why was she — who — who forced her to come here?

A The district attorney's office.

Q And — and what did the district attorney do to force her to come here?

A If you make a statement on any aspects — That's how they have formally indicted me. You don't have to have much information to indict a person. An indictment is a formal written warning that's accusing a person of a crime, but when you go past the aspects to tell any judicial official that you know about anything

they're going to hold you accountable for what you said to them.

Q So, let's — let's stop there. Ms. Moore gave — was contacted — Do you know why Ms. Moore was contacted by the Bossier Parish Police Department?

A I haven't the slightest idea.

Q If I told you that the State has evidence that phone numbers from a cell phone that they alleged you had where calls were being made to Ms. Moore back and forward and that's how they — why they contacted Ms. Moore, what's your — what's your answer to that?

A It's a good possibility that I had. It's a good possibility that I didn't, because my associate, Robert Evans, that drove trucks, he had it as well.

Q Robert Evans had your cell phone?

A Yes, sir.

Q And so you're saying that Robert Evans was — Let's go specifically on –

A That's right.

Q — the date of 5-9-2008, the next day after the murders took place. The DA will probably have cell phone records that's going to say you were making calls — somebody — they — somebody owning a cell phone that you had in your possession –

A Uh-huh.

Q — was making phone calls to Ms. Sharon Moore. Who was —On the — on the 9th of May, 2008 —

A On the 9th —

Q — were you making phone calls to Ms. Moore — to Ms. Moore on that date?

A On the 9th of two 2008 in May?

Q The day — the next day after the murders the cell phone records show that a cell phone that allegedly belonged to you was making calls to Ms. Moore. Were you the person doing that?

A No. Mr. Evans was calling the numbers back that was on the phone because he was in possession of the phone. He — You know, I had another phone because Detective Humphrey was steady threatening me and calling me, so I went and bought me a pre-paid phone.

Q So I want to talk — So Detective Humphrey was threatening you. I want to talk about that. Hold on.

A Yes, sir.

Q So — So I want to be clear. You never called Ms. Moore on five — on the day after the murders?

A No, sir.

Q And if the phone — if phone call — if the phone records from a phone that you allegedly own showed that you were making calls going backwards and forwards that wasn't you?

A No, sir.

Q And who do you think was making those calls?

A I just quoted on the record, Mr. Robert Evans was.

Q Who's Mr. Robert Evans?

A Mr. Robert Evans is a Continental Truck driver that I know from Cedar Grove. He's a good friend of mine.

Q And why did Mr. Robert Evans have that cell phone?

A I let him use it.

Q And why did you let him use it?

A Because his wife turned his off.

Q Because his wife turned his off?

A Yes, sir.

Q So, Mr. Robert Evans — Do you know why he was calling Ms. Sharon Moore?

A I mean he was calling everybody back home for me. I told him I didn't have no dealings with Sharon. I told him you can talk to her.

Q No, I'm asking you — I'm asking you specifically, Robert, do you know why Robert Evans, your friend, was calling Sharon Moore the day after the murders?

A No. No, I cannot answer that.

Q Did your — did Mr. Robert Evans know Ms. Sharon Moore?

A We spoke of her and I told him I don't deal with her, so you can talk to her. And she didn't think highly of that when I offered her to someone else.

Q So you offered — so you broke off with Ms. Sharon Moore and you offered her to your friend?

A Yes, sir.

Q And he was calling her that day? The day after the murders he was calling her?

A Well, I didn't have the cell phone to —

Q Okay.

A — specifically say that he was calling her —

Q Okay.

A — but I know he had the phone and on occasions he told me he talked with her.

Q Okay. Do you know why Ms. Moore gave a statement to the police immediately after the murders took place reciting everything that she testified to? Do you know why Ms. Moore told the police that information? Why she lied on you? Because you're saying she lied on you, correct?

A Yeah. Ms. Moore is very upset with me, sir.

Q Why is she upset with you?

A Because she tell me basically that I made a fool out of her.

Q Can you explain?

A Yes, sir. Ms. Moore was very infatuated with me. Me and Ms. Moore, we went places together, did things together. Her kids, they loved me. And when I broke it off with Ms. Moore — Ms. Moore always had a man staying with her, her kids' father. Ms. Moore was playing two sides of the fence at the aspects of our socializationship. And it came to a point that if someone don't be the bigger person here, something is not going to work out right. So I told Ms. Moore it was fun while it lasted, but I'm not going to do this anymore. I have a conscience.

Q So Ms. Moore testified — Ms. Moore told the police that you admitted to killing someone because she was scorned and you broke off the relationship?

A Yes.

Q Is that the reason why?

A I would believe so.

Q Now, you indicated that Detective Humphrey was making threats to you during this time —

A Yes, sir.

Q — correct?

A Yes, sir.

Q What do you mean?

A I mean plain and simple Detective Humphrey threatened me. Detective Humphrey told me he was going to kill me because I exposed Mr. Richard McGee. I exposed Mr. Joshua Bounds. And I got involved in a situation that I never should have got involved in. I exposed Mr. Robert Thomas.

Q Let's talk about it. All right. Okay. Detective Humphrey told you he was going to kill you because you exposed Mr. Richard McGee — I want to write these names down — right?

A Yes, sir.

Q And who else did you expose?

A Joshua Bounds.

Q Joshua Bounds?

A Yes, sir. He worked —

Q And who else did you expose?

A Mr. Robert Thomas. He used to be an ex-sheriff's deputy. He owns White Automotives right off Barksdale. And all these people that I've mentioned are very strongly in drugs.

Q Okay. All right. So what does Mr. Richard McGee do?

A He's a pastor and he's a Bossier City policeman.

Q He's with the Bossier City Police Department. What specifically did you do to expose Mr. Richard McGee to Officer Humphrey that he wanted to get you and kill you? What did you do?

A Well, when me and Mr. Humphrey first crossed paths, I was trying to tell Mr. Humphrey about Mr. McGee thinking that I was doing the right thing because detectives are in a vindicative line before everybody else, not knowing that I was talking to somebody that was right along with them.

Q So what — what — tell — let me ask you specifically. Are you saying that Mr. —a police officer from the Bossier Parish Police, Mr. Richard McGee, was engaged in criminal conduct?

A Yes, sir.

Q What criminal conduct was he engaged in?

A He was selling drugs to numerous individuals. Mr. Richard McGee has been incarcerated for carnal knowledge of a juvenile. He got four and five — yes, sir — individuals pregnant that are young adults or what is it — What is this gentleman's name? Wayne Womack — And Mr. Humphrey is very familiar with him —that's at the Max now.

Q Okay. Let's — let's talk about Richard McGee.

A Okay.

Q And so you're saying Officer Humphrey, this man sitting in the courtroom, had knowledge that the Bossier Parish police officer, Richard McGee, was selling drugs?

A Mr. Humphrey and all of them have knowledge of everything that's going on. Even Chief Halphen had knowledge of everything that was going on.

Q All right, let me stop you. You're saying that Officer Humphrey is engaged in a cover-up with Richard McGee to sell drugs? Is that what you're saying?

A Mr. English, all of them are involved in the cover-up. They watch — they watch one another's back, Mr. English. They're not going to give up on their own, Mr. English.

Q Mr. — Who is Mr. Joshua Bounds?

A Joshua Bounds is another policeman that works for them. He works in the Narcotics Division.

Q And is Mr. Joshua Bounds also selling narcotics?

A He's involved.

Q He's involved?

A Yes, sir.

Q Along with Richard McGee and Detective — and Officer Humphrey here?

A Officer Humphrey has foreplayed knowledge of everything that was going on. Office Humphrey was the one that called my phone, told me that he was going to say everything bad about me on the news. Officer Humphrey — I'm not going to stricken it on the word — called me every cuss word but a child of God. Officer Humphrey told me he was going to do everything he could to get me. Officer Humphrey was the reason why I went out of state on the twenty — 21st of April. That was the reason why I went out of state after Richard McGee and Joshua Bounds came into my house off Texas Street, hit me in the face with his weapon, beat me up and took $1200 —

Q Okay, let me stop you —

A — from me.

Q Let me stop you. So you're saying Officer Humphrey chased you out of the State of Louisiana?

A Yes, sir.

Q And Officer Humphrey wanted — wanted to do harm to you?

A Yes, sir.

Q And you're saying Officer Humphrey was involved in covering up drugs that Bossier Parish police officers are involved in?

A Yes, sir.

Q I'm going to — Let me ask you. Can you tell me briefly how do you know that these individuals were involved in selling drugs?

A How do I know?

Q Yeah.

A I've seen it. I've been with individuals that they support and give drugs to.

Q So the Bossier Parish police are selling drugs in this community is what you're saying?

A Yes, sir. They're as corrupt —

Q All right.

A —as you ever want to see them.

Q All right. Okay. Now, the District Attorney yesterday played a 911 tape of Ms. Christine Colston.

A Yes, sir, I heard it.

Q You heard it. And on that tape Ms. Colston in harrowing, chilling — is begging, Robert, Robert, she's not back there. She's not back there.

A Yes, sir.

Q Was that you?

A No, sir. That was Mr. Robert Thomas. Mr. Willie Young was a trans —

Q Okay. All right, let — you say that was Mr. Robert Thomas?

A Yes, sir.

Q Now who is Robert Thomas?

A Robert Thomas is the drug-dealing cop that I was speaking about that owns White Automotive right off Barksdale.

Q And Robert Thomas — Why was Robert Thomas in the house and why did you believe Robert Thomas committed these crimes?

A Mr. Thomas was also involved with my brother. My brother and Mr. Young transported dope in cars for them coming back. And I went with Mr. Young to White's Automotive and Mr. Young had something in a bag. I didn't know what it was until I went to —I tried to tell —

Q So let me — No, no. I'm asking you a question, Robert. Why are you saying Robert Thomas and not Robert McCoy was the person in that house and killed those people?

A Willie Young told me he owed Mr. Thomas $2500 and asked me for it because he said an individual ran off with his dope and money. And I told him I was not going to help him contribute to no assets like that. If he needed food, if he needed aspects for shelter I would help him. He gets a check. And I want to bring this to your recollection. On this — on this day — They get

checks on the first, third and fifth. It's no coincidence that Mr. Young and my family perished on the 5th. That was a day when he supposedly got some money. They know it. It's a regular routine. It's a regular routine.

Q Who knows that? Detective Humphrey knows that?

A No. The people that he deals with.

Q Okay. And — and —

A And by the way Mr. Young is my cousin.

Q And so — and so — and so you are saying Mr. Robert Thomas committed these murders because this was essentially about drug money is what you're saying?

A It was a drug deal gone bad. They spoke it on the news when it first happened. Then all of a sudden I became the main suspect because McGee and Bounds when they beat me up in my house took the car — took the car. It didn't have no plates or nothing on it. It was sitting in the back part of the apartment. They took the car.

Q All right. Let's — let's talk about the car. The State showed video tape of a white vehicle speeding away from the crime scene. Do you admit that that was your car?

A I admit that that is the car that me and my wife had occupied, yes, sir.

Q Okay. All right. Okay. And the video, which was quite dramatic, shows the police chasing you. And the police officer says, he's going to bail. He's going to be — he's going to bail. He's going to bail. And quite clearly on the screen a black male hops out of that car and hops over the fence.

A Uh-huh.

Q Was that you?

A No, sir. And I want —

Q Who was that? Who was that, Robert?

A And I want to correct you. You said that he was chasing me. No, he wasn't chasing me.

Q I'm sorry. He was chasing the vehicle and a black male hopped out of the vehicle and jumps over the fence. That was not you?

A No, sir. No, sir.

Q Who was it, Robert?

A You're asking me to speculate and I can't do that. I know I was in — wasn't in possession of the car.

Q Okay, Robert, who had possession of your car?

A Mr. McGee and them took it from me, so I can't tell you — I don't have —

Q When did Mr. McGee and them take your car from you?

A Sir?

Q When did they take your car?

A They took my car on the 18th.

Q Of what, April?

A No. The 18th of — Yeah, the 18th of April of 2008.

Q They took your car?

A Yes, they did.

Q Tell me — tell me how did they take your car? Now who is —Now tell me who is Richard McGee again?

A Richard McGee is a cop that works for the Bossier City Police Department.

Q So the Bossier City Police Department police officer who sells drugs –

A Yes.

Q — took your car?

A Yes.

Q Why would he take your car, Robert?

A Why wouldn't he? Why wouldn't he?

Q No, I'm asking you — I'm asking you — I'm asking you — I'm asking you, please explain why would he take your car?

A Well, Mr. McGee and them's whole aspect was to kill me. I have neighbors on both sides of me and due to the fact that they couldn't accomplish their aspects of their missions they told me I was going to wish I was dead.

Q Because you were going to expose them?

A No, I already did. I'm telling you —

Q You had — you had —

A — I talked to Mr. Humphrey there.

Q Because you exposed them — about them selling drugs?

A Yeah, and I didn't know Mr. Humphrey was right along with them.

Q And so they took your car, right? You're saying they came into your house and took your car?

A No. I'm telling you they came into my house and took my car.

Q No, I understand. I understand. And so the car that was being driven at the crime scene wasn't your car? I mean was your car but you don't know who was driving it?

A No, sir.

Q So, Robert, it appears —

A Uh-huh.

Q — that the individual who jumped out of that car and hopped over the fence had the same build and body type as you.

A Mr. —

Q Do you see that?

A Yes, sir. Mr. McGee's got the same build and body type I do — I do too.

Q So it's a possibility it could be Mr. McGee that was driving that car?

A Yes, sir. I'm not going to speculate, but they know Mr. McGee's got the same build as I do too.

Q Okay. But it wasn't you?

A No, sir.

Q All right. Let me — let me — let me go back because I — I want to try to keep this — Before all of this took place, the District Attorney showed a video tape that he alleges, and I believe that Officer Humphrey said, was you purchasing bullets from Wal-Mart.

A Mr. Humphrey will tell you anything to try and tie me into something. State versus Tilley vindicates that the description of a suspect has to be sufficient and in detail. You can't speculate and say this is someone. You have to know that that is someone. There are a lot

of people on death row right now because someone speculated because that is someone. You have to be specific. You have to know if that's Robert McCoy, that's Robert McCoy; if that's McGee, that's McGee.

Q Would you acknowledge, Robert, that the person on that video had your same body type and physical resemblance; that that individual physically resembled you? Would you admit that?

A I'm not a body watcher, sir, and I'm not going to —

Q Okay. Okay.

A — vindicate that.

Q Well, that's — that's — that's fair. I think you recall that the individual on that video tape had a do-rag on?

A Yeah.

Q Right?

A Yeah.

Q What's a — what's a do-rag?

A do-rag is a cloth thing that you wear on your head to support your so-called —

Q Your hair?

A — wave formation on your head. It's a $3.00 aspect and everybody wears them.

Q And it's there to — When you say wave, black men like to wave their hair?

A Yeah, like the little foundation of your hair —

Q Yeah.

A — it has wavy aspects to it.

Q And so you wear a do-rag, correct?

A Yes, sir.

Q And that individual had a do-rag on, correct?

A Yes, sir.

Q Okay. But it's your testimony that was not you?

A My testimony is solemnly that was not me.

Q Okay. And Detective Humphrey who identified you is — that's just a part of his plot —

A That's exactly right.

Q — to do you in?

A Was Detective Humphrey there to see me purchase bullets? Was — was Detective Humphrey right there with the cashier to see me purchase? He wasn't. So Detective Humphrey can say anything he want to say right now, but if Detective Humphrey was really real about things he would tell y'all the truth about everything that's going on.

Q Okay. All right. And so, Robert, the testimony is then and the evidence then shows that according to the District Attorney you called your brother — Gayle Houston testified. You know Gayle Houston, correct?

A I know Gayle well.

Q And Gayle said — indicated that you and he were childhood friends, correct?

A Yes, we — yeah, we grew up together.

Q And it was apparent that Gayle didn't want to be in here testifying yesterday?

A That's exactly right.

Q Now, why do you think your childhood friend came in here and testified against you?

A Look at the powers that be.

Q Schuyler Marvin?

A Yes, sir. And then he also —

Q Are you saying — Are you —

A He also told you that when you cross-examined him further that they told him that they was going to tie him into it as an accessory to the fact. That — that's a threat.

Q So — so Schuyler Marvin —

A That's coercion.

Q Okay. I'm sorry. Go ahead on.

A That's a threat. That's coercion. You — they coerced him to — to the point that he couldn't make an intelligent decision on his own. That's the aspects of Mintzy (sic) versus Arizona. You can't coerce a person. You can't lead a person. You can't vindicate the aspects of your law to a person in which they — they're not able to make a probable decision.

Q And so Schuyler Marvin pressured Gayle Houston to come in here, correct?

A Yes, he did.

Q So let me ask this question. Gayle Houston gave a statement immediately after these murders took place and in that statement he indicated that you told them "I fucked up."

A No, sir.

Q You never told him that?

A Gayle Houston also told you that —

Q Let me just ask you, you never told –

A No, sir.

Q — Gayle Houston that?

A No, sir. No, sir.

Q Gayle Houston testified that you told him and his brother and your brother, Spartacus, that you had killed three people and you're not going to jail. You didn't tell him that?

A Mr. English, all this is hearsay.

Q No, I'm — Okay, I understand. But it's in the record now.

A This is hearsay. I understand it's in the record.

Q Okay.

A But you're questioning me about something I have no relevance to.

Q Well, well — But what I'm telling you, you heard Gayle Houston's testimony yesterday, right?

A I — I heard everything everybody said in here, Mr. English.

Q Okay. And so, do you know why Gayle Houston –

A I can't —

Q — he lied on you?

A Well, he had a purpose. He involved himself into something that he shouldn't have been involved in. Also, in the record it stated in his report that he didn't know about the incident until the day after. He — It also vindicated that he told a fellow employee. A fellow

employee vindicated that they called the policeman and that's how Mr. Houston got personally involved.

Q Okay. Well, let's — let's — let's focus — let's focus on — Mr. Gayle Houston gave a statement to the police. That's —and he stated that. That's in the record. And what he told the police, he's lying, correct?

A Most definitely.

Q Okay. And your reason for why Mr. Gayle Houston lied on you is that this man, Schuyler Marvin —

A And Mr. Griffith, the detective.

Q Wait a minute. The District Attorney. Who else?

A Mr. Griffith, Brian Griffith.

Q And Brian Griffith threatened him?

A These detectives in Bossier City that's all they do, threaten, lie and coerce.

Q Okay. And they forced Gayle Houston to testify against you?

A Yes, sir.

Q Okay. And when Gayle Houston testified that you were crying and upset, he's lying?

A That never happened. I never seen Gayle Houston.

Q And when Gayle Houston testified that you said I'm going to kill myself, I'm not going back to jail, he's lying?

A As you see, I love me. What am I going to kill myself for?

Q Okay.

A I love me.

Q All right. Now, the evidence then, according to the District Attorney, shows that you hitchhiked a ride in East Texas with a truck driver?

A That never happened.

Q That never happened?

A That was Robert Evans that I was with, the fellow truck driver that I told —

Q Okay.

A — you about. That's after I came back from California.

Q Okay. So on — on the day after the murders you never hitchhiked a ride with anybody?

A No. I wasn't in the State of Louisiana.

Q Okay. I want to — I want to — Okay, let's talk about that

A All right.

Q On — on — on the — on the — on the night of the murders

A Yes, sir.

Q — where were you at?

A In Houston, Texas.

Q You were in Houston, Texas?

A Yes, sir. I gave you the aspects of Ms. Sharon — with Ms. — What is — Her name's not Sharon. Sandra Black.

Q So —

A You — you read the letter and Sandra vindicated how could they put you there.

Q Okay.

A How could they even say you did it. I was with her and I told you some personal things to vindicate that I was with her.

Q All right. Okay. So you were in Houston, Texas?

A Yes.

Q Now, the DA's going to probably introduce some cell phone records from a phone that again he said belonged to you showing that you were making numerous calls and that the cell phone tower shows that those phone calls were being made in Bossier Parish –

A Okay.

Q — and Caddo Parish.

A Okay.

Q Can you explain whose cell phone was making phone calls on the — on the 8th of May, on the 9th of May, in Bossier and Caddo Parish?

A You asked

Q Let's — let's be specific. It will show on the night of the murders your cell phone, according to the district attorney —

A My sister's cell phone.

Q It was your — it was your sister's cell phone?

A Yes, sir.

Q And you didn't have possession of that cell phone?

A No, sir, not at that appropriate time.

Q And who had possession of that cell phone?

A Mr. Roberts Evans, sir.

Q Mr. Robert Evans had possession of it. And so, Robert Evans was calling all these people. It wasn't you? I'm just asking you. That's a straight question.

A The normal response, sir, when someone calls your phone you're going to call them back.

Q No, I'm asking — no, no, no. Robert Evans was using your cell phone?

A Yes, sir. Robert Evans —

Q And all those phone calls going backwards and forwards from that cell phone Robert Evans was making those phones — I mean Robert Evans was making those phone calls?

A He was in possession of the phone, sir.

Q Okay. Was Robert Evans in — He wasn't in Houston with you. He was here in —

A Robert Evans left Houston Sunday and came down here to get a tractor/trailer load and —

Q Okay.

A — came back. That's how I ended up getting in aspects of a eighteen-wheeler.

Q Okay. All right. So on — so let's just — let's just stay focused here. On the day after the murders the District Attorney's testimony is — I mean his evidence is — he's arguing you hitchhiked a ride in East Texas and there was some problems with that driver and at the — at the — at the state line of Idaho, at the weigh — the weigh station, you then got in another vehicle?

A Well, it didn't go according to that aspect.

Q Well — well, tell us.

A Well, when me and Mr. Robert Evans, we reached a truck stop in Texas. Mr. Robert Evans' gear shift messed up on his truck. And that was the truck that officially messed up. And then there was a man named Mr. Robert — Robert — Robert — Robert — Robert Dean, a fellow trucker of his, because I told Mr. Evans now you done got me out here. I'm not going to stay out here. I'm not used to doing this. So Mr. Dean is the fellow trucker that I got in with that he spoke with that was going to help me get back to up there with my brother because I was not coming back down here —

Q Okay.

A — after Mr. Humphrey and his whole crew was trying to kill me. I wasn't coming back. I was fleeing for my life.

Q So let me stop you.

A Yes, sir.

Q You were in those — Why didn't you like take the Greyhound bus?

A Well, I took the Greyhound bus when Mr. McGee and them tried to kill me and my brother took me down to the Greyhound station and I —

Q No, I'm asking you — I'm asking you — I'm asking you now on — on the day when you were riding with Mr. Evans why didn't you take a bus or an airplane or drive?

A Why would I? I mean that's my company. That's my friend. I wanted to —

Q Okay.

A — you know, assist him in anything that I could. I wanted to talk to him. I needed somebody to talk to.

Q All right. So you weren't fleeing from –

A No.

Q — you weren't fleeing from anybody, from these murders?

A No. No.

Q Right?

A No.

Q You didn't know that the murders had taken place?

A No.

Q All right.

A No.

Q So let's speed up. You get in the truck in Idaho, correct, at the — at the line? You transfer into another — with another individual?

A It's a lot of lines here, Mr. English.

Q Okay. Let me put it like this then. Let's speed up. The State has testified that at the weigh station you got in another truck and that truck proceeded through Idaho — Lewiston, Idaho.

A Swift Truck?

A Well, that was — that was Mr. Blanchard's truck.

Q Right.

A The only reason I got in the truck with Mr. Blanchard was because Mr. Dean, the individual that got stopped —

Q Okay.

A — because he was over his time limit and didn't have his sheets right. We was going to the next stop to

get something to eat and Mr. Blanchard vindicated, well, Mr. McCoy, since Mr. Dean is stopped, hey, I'm going that way.

Q Okay. And the District Attorney put up on the screen yesterday —

A Uh-huh.

Q — the video tape and you heard the officer from Idaho testify.

A I sure did, sir.

Q And the video tape was again quite dramatic. It shows the police pulling over the truck. It shows the police bringing you out of the vehicle –

A Uh-huh.

Q — and bringing you and placing you in front of the police vehicle. You remember that, right?

A Placing me on the side of the police vehicle?

Q On the side of the police vehicle, okay. Now, can I tell you what I noticed about that video, Robert, that I have a question about?

A You — you're entitled to your opinion.

Q No, not an opinion. I have just simply a question. You can answer it, okay. On the Wal-Mart video you were wearing a black do-rag.

A Yes, sir.

Q On the video when you were pulled out of the vehicle you were wearing a black do-rag?

A Well, on the Wal-Mart video I was not wearing a black do-rag because it wasn't me.

Q Well, let me put it like this. I apologize. The individual that was on the video was wearing a black do-rag on his head.

A Yes, sir.

Q You saw that, right?

A Yes, sir.

Q And when you were pulled out of the vehicle you were wearing a black do-rag?

A Yes, yes. Yes, sir.

Q Okay. And it was — do you understand how it would be easy for somebody to say, well, if the person in the video in Wal-Mart had a black do-rag on —

A That's speculation, Mr. English.

Q Let me just finish. And when Robert was pulled out of the truck he had a black do-rag on —

A Uh-huh.

Q — that had to be Robert at Wal-Mart buying the video.

A No, sir.

Q Do you understand how somebody could make that speculation?

A Well, yeah, anybody can make a speculation and intuitions, but that don't mean it's that person. You have to —

Q And so —

A You have to be sure, Mr. English. The jury sat on this panel said they was going to listen to all to be sure about the facts. We're not trying to mislead someone to

say, well, it looked like him, so it's him. You can't say that a duck is a duck unless you know it's a duck.

Q Okay. And so that's pure coincidence?

A I'm not speaking of pure coincidence. I'm —

Q No, I'm saying — No, I'm asking you a question. I'm just asking you a question. I'm going to move on. The fact that the individual wearing the do-rag in Wal-Mart and you had on a — what looks like the same do-rag when you were pulled out of the truck that's just coincidence?

A Well, Mr. English, do you know how many do-rags in Wal-Mart look the same?

Q Millions.

A Do you know how many people walk —

Q Millions.

A — through Wal-Mart with do-rags on their heads?

Q Millions.

A So let's move on, sir.

Q Okay. All right. Now, the officer testifies —

MR. ENGLISH:

Can I see Exhibit — I believe it's 74, the weapon. Is it 74?

MR. MARVIN:

What?

MR. ENGLISH:

The — the alleged murder weapon. Is that Exhibit 74?

THE COURT:

Seventy-four.

MR. MARVIN:

Hold on. Hold on.

MR. ENGLISH:

Okay.

MR. MARVIN:

We're not fixing to give that guy a gun in here.

MR, ENGLISH:

No, Mr. — Mr. — Mr. Marvin. And I object to that statement.

MR, McCOY:

And I do too, Your Honor.

MR. ENGLISH:

That would mean that I'm stupid and everybody in this room is stupid. We're not giving anybody a gun. Okay. All right.

Q In this box is the murder weapon, okay?

A Well, in that box is what they say is the murder weapon.

Q Let me say this here. You saw pictures up on the screen –

A I seen very —

Q —of the — of a .38, correct?

A I've seen —

Q That's in that box, correct?

A Yes, sir, I have.

Q All right. Have you ever seen that weapon before?

A Yes, sir, I have.

Q Where you saw it at?

A When Mr. Roberts put it in the doggone truck.

Q Who is Mr. — The truck driver?

A No, this is the police that sat up here.

Q Oh, the police officer?

A Yes, sir.

Q When he arrested you he put that weapon in that truck?

A They didn't find a weapon in that truck period at first. And then as he communicated with you he was told that I would possibly be having a .380 weapon.

Q Okay.

A And the possible weapons of most police are .380 sidearms. They're — they're a back-up weapon. I do my research, Mr. English.

Q So I want to be clear. The weapon that was found in the car, you didn't put that weapon in the car?

A No, sir.

Q The — the officer who testified here yesterday from the Idaho Police Department, he put the weapon in the car?

A Yes. He also told you that he was in constant communication with Mr. Humphrey there that has the smirk on his face right there.

Q Okay. All right. And do you know why the officer put the weapon in the vehicle? Why would he — was he in — was he in a conspiracy with Officer Humphrey?

A Yes, sir.

Q So you think Officer Humphrey called him and told him to plant the weapon in the truck?

A I'm pretty sure he did because they done spent a lot of money dramatizing this venue and putting me on television like I'm a monster. They're not going to come out short.

Q Okay.

A They're going to cross every — They're going to dot all "I's" and cross all "T's".

Q Okay.

A But I'm letting them — the venue know right now I'm no monster. I'm no wife — no cold-blooded killer. I'm a good man. I'm a Christian man.

Q Okay, Robert, let me stop you. I want to be clear and we're going to move on. So the murder weapon in the car you had never seen?

A No, sir.

Q And Detective Humphrey and the Idaho Police Department entered into a conspiracy to get you?

A Police departments work together Mr. English.

Q Okay. Now —

A That was the biggest case Idaho probably have ever had or ever been involved with and do you think they're going use those tax dollars and man time to just throw it away? They're going to get a positive aspect out of anything that they do.

Q Okay. So, Robert, you were then arrested, correct?

A Yes, I was, sir.

Q Now, you heard the officer yesterday and you heard Detective Humphrey when I asked him —

A I heard them quite clearly, sir.

Q — on 5-12-08 according to the Lewiston Police Department an officer, Richard Smith —

A Richard Smith, I don't know him.

Q That's — that's okay. Came into the cell and saw you hanging from the cell with sheets which you had wrapped around your neck, you were unconscious and that you had attempted suicide?

A No, sir. Once again, I love me. Also, if you would vindicate, Mr. English, on the photos once they arrested me after you seen when both of my eyes were swollen shut, you seen when my face was swollen shut. The crime lab woman that vindicated on that shirt there was blood on my shirt. She also vindicated it was two types of blood on my shirt.

Q Well, Robert, I want to — I want to state for —

A Whoa, let me — let me speak here.

Q All right. Okay.

A And she also vindicated there was two types of blood on my shirt. They did the DNA and they vindicated it was my blood and someone else's, but it wasn't the victims' blood.

Q Because Robert —

A Well, hold on, let me — let me — let me finish, sir.

Q Okay. All right.

A And the blood that it was was one of the officers that beat me.

Q Okay. So — so you never attempted to commit suicide in Idaho?

A No.

Q The officers beat you and they're lying?

A They're lying through their teeth.

Q Okay.

A And then also to vindicate it, what audio — what video do they have?

Q Let me — let me — let me go back.

A And also the doctor at the hospital vindicated that I did not try to commit suicide. I would have a black laceration mark around my neck for the rest of my life.

Q Okay.

A Facts are facts.

Q Let me — let me just go back to the — to the weapon.

A Yes.

Q Did you see the officer cock the weapon and place it behind the — in the vehicle?

A I didn't see none of that, Mr. English.

Q But you did — but you know he placed it into the vehicle?

A I know he placed it in there.

Q All right, Robert. Okay. And then, Robert, isn't it true you were put on a suicide watch while you were in –

A Lewiston.

Q — Lewiston, is that true?

A Yes, sir. Yes, I was.

Q But you're saying that's all a sham to cover-up the fact that they had beat you?

A Yes, sir.

Q Okay.

**(SCREEN BEING LOWERED BY COURT REPORTER)**

MR. ENGLISH:

All y'all finished? That's kind of distracting.

MR. MARVIN:

She did that. I'm sorry.

MR. ENGLISH:

Okay, I'm sorry.

MADAM CLERK:

It has to warm up.

MR. ENGLISH:

All right, I'm sorry. Okay.

Q On 5-14-08 you were brought back to Bossier Parish, correct?

A Yes. But let's stay in Lewiston right now.

Q All right. What do you want to say about Lewiston?

A When I went to the court and the Lewiston magistrate dismissed two charges that they put against me — Read out for the record the charges they put against me.

Q So you're saying in Lewiston — I'm — I don't dispute that. I think it's undisputed in Lewiston they dropped — they had some — they had brought some weapon charges against you and they — and they dismissed all those charges against you.

A Yeah. You also heard Mr. Roberts mention yesterday that this so-called firearm was behind the seat. And I also want to vindicate something from here. I'm right-handed. If my chair was turned this way and they said this gun was cocked in this direction —

THE COURT:

Mr. McCoy, let me make sure that you're next to a microphone.

MR. McCOY:

Yes, sir. Yes, sir.

A And they said this gun was cocked in this direction. I'm right-handed. If I was to grab a firearm and try to put anything behind the seat it would be pointed in that direction. I'm not left-handed.

Q Okay.

A And also to vindicate a more vague point here is that they have blackened — blackened aspects that they can swab and see for fingerprints. You — They also vindicated that they didn't check for fingerprints at the crime lab because they wasn't requested. But if the DA's office and if the judicial district really wanted to see who had that gun they would have vindicated fingerprints. They vindicated DNA to see whose that blood was.

Q Okay.

A They wasn't trying to see who that gun belonged to.

Q All right.

A Because they already had the person that they was going to try to put it on.

Q Okay, Robert. I want to — I need to — I need to ask you a few more questions, okay. On 6-8-08, the records from the Bossier Max show that you again attempted to commit suicide. And their records say suspicion of attempted suicide by following razor — by swallowing a razor blade. EMS noted there was blood —

A Everywhere.

Q — and feces everywhere in the jail cell.

A Everywhere. Everywhere.

Q So, Robert, on — on 6-8-08 did you attempt to commit suicide again by swallowing razor blades?

A No, sir. Ever since I've been at the Bossier Max I've always — I also filed a federal lawsuit vindicating this — they've beat me consistently. They've beat me consistently in handcuffs. That night of that same incident it felt like something ruptured in my stomach from the constant beatings. And I bled all over the cell. I tried to get up and put my fingerprint on the wall. I fell. I bled four and a half units of blood, ladies and gentlemens, out of my rectum from the beatings that they have put on me at Bossier Max. Four and a half units of blood, ladies and gentlemens. Then they went to the same — the same police officer went to the hospital and told them I swallowed a razor blade. They did a colonoscopy on me and put a camera tube down my throat and up my colon. There was nothing in there. I have the medical records, 479 pages of medical records that vindicated that I —

Q Okay, Robert.

A — did not try to commit suicide. I entered it into the record here. They haven't showed you all these records —

Q Oh, okay.

A — because they don't want you all to know the truth.

Q Okay, Robert. Officer Deputy Rawlins in the records noted that when he saw you, "McCoy was squatting in C101 trying to wipe blood and feces from his rectum." '

A That's right.

Q "There was fecal matter in a pool of blood on the floor.

A That's right.

Q You were not attempting to commit suicide? That was from a beating from a police is what you're saying?

A Yes, sir. Constant abuse.

Q Okay. EMS came and picked you up, correct?

A That's exactly right.

Q And they took you to LSU, correct?

A That's right. And I was unconscious as they will tell you in the report.

Q Okay. And they had to give you a significant amount of blood transfusion, correct?

A That's right. Yes, sir. And as we move further, that's not the only beating incident. It's — it's more to come.

Q So the police has consistently beated you — beaten you, correct?

A Yes — yes, sir. And not to be rude or vague about anything, they shot me with a Taser. I have all the proof right here on my arms, ladies and gentlemen.

Q So, Robert, on —

A I'm — I'm physical proof here.

Q Robert, on 7-21-08, the records show that the —

A What date is that again, sir?

Q 7-21-08, Bossier Max Records Incident Report showed that they again had to intervene because —

A It was one before that, the 13th, sir. After I came back from the hospital three days later — eight, nine, ten — yeah, four days later they beat me again in the shower area.

Q They beat you — they beat you again in the shower area?

A Yes, sir.

Q And there's a video camera that caught the whole incident. I made sure I went out in the hall when they was beating me. I was in total submission. I wasn't in aggression. I had my hands behind my back. I was on my knees and I laid down to show them that I was not the aggressor. In perspective of me doing that they still Tased me, they still kicked me, they still struck me with open fists. And to show you that I'm not a bad and naive person, Mr. Robert Parker, that's sitting before you was the gentlemen when I was soaking wet that Tased me from my left leg; that Tased me —

Q Now, who — who — I'm sorry. Who is Mr. Robert Parker?

A That's sitting right before you.

Q Right there?

A Yes, sir. Yes, sir.

Q Mr. Robert Parker Tased you in the shower?

A No, Tased me on the outside of the shower.

Q He did?

A Yes, sir, in the hallway in front of the cameras, ladies and gentlemen. And Mr. —

Q And why did — and why did he Taser you Robert?

A Wait, a minute. Let me tell you — finish my story, sir.

Q Okay.

A He Tased me while I was soaking wet coming out of the shower on my left leg, my right leg and my — and my chest area on my heart.

Q Okay. And —

A He had —he had instructions to do what he did, sir. I don't fault Mr. Parker for doing what he did because when you get superior orders from people upstairs you're going to vindicate what you was told to do. And saying this to say that, I have no animosity against Mr. Parker. I love him like a brother.

Q Okay, Robert. And then on another suicide attempt according to the records, you were observed coughing up and it was determined that you had swallowed large amounts of toilet paper or either the Bible. There's been conflicting evidence. And you tried to commit yourself by suffocating yourself by stuffing paper down your throat.

A So they're basically telling you I'm full of the Word?

Q I — I don't know, Robert.

A No, I had —

Q Did you attempt to commit suicide on that time?

A No. I had a bad toothache and they wouldn't take me to the — the medics. So I put some tissue on the right side of my mouth to — You know, when you breathe in cold air and you've got a nerve problem in your mouth it kind of helps it. And I swallowed the paper, sir. There was no suicide attempt there.

Q There was no suicide attempt?

A No, sir. They know it. They was right there. I was in the observation window right beside the booking desk. And, as a matter of fact, there was two detectives there as well.

Q Okay, Robert. On 7-29-08, Sergeant Gauthier — I hope I'm pronouncing his name right.

A You're talking about Sergeant Gauthier.

Q Sergeant Gauthier. In his report he indicated, "McCoy was found on the right side of the cell, bloody, slightly visible along the bottom of the mat and unresponsive, observed large amounts coming from Robert McCoy's right arm.

A Yes, sir. Sergeant Gauthier is the one —

Q Let me finish, Robert.

A Okay.

Q Let me ask you the question. According to the incident reports —

A Uh-huh.

Q — you attempted to commit suicide by chewing into your arm to bleed to death. You chewed into your right arm to bleed to death. What's your — And, again, is that true? I mean that's what they're saying in the reports. Is that true?

A Well, I'm going to say this, no, it's not true. I think I look pretty decent, but I'm never going to try to taste myself and see how I taste.

Q Now, it wasn't the — it wasn't to taste yourself, Robert.

It was to kill yourself.

A No, no, no.

Q You never –

A No.

Q You never chewed into your right arm —

A No, Sergeant Gauthier —

Q —to attempt to kill yourself?

A No. Two days before that Sergeant Gauthier shot me with a Taser with the prongs on it and jerked them out. This is where he ripped my main artery in my arm. And under this Taser belt is two long lacerations in which he pulled the Taser prongs out. I had blood shooting from here to all the way over there where the jury members are at.

Q So — so — so — so why were you — so why were you bleeding — so on the day where you — they alleged you tried to chew through your arm –

A Uh-huh.

Q — and kill yourself?

A They had wrapped it up, sir.

Q No, but I'm asking you how did that — Why were you bleeding? You were bleeding so bad that they had to call EMS and rush you to the hospital.

A No, they tried to —

Q Why were you bleeding?

A They tried to doctor on it themselves.

Q What happened to your arm?

A They shot me with the Taser and ripped my main vein out.

Q Okay. And the records show that when the EMS was taking you to the hospital the report says while in — while McCoy got his right arm free and began clawing his leg while trying to place gauze and bandage on McCoy's right hand, McCoy grabbed the EMT's pant leg. McCoy's right wrist was placed in handcuffs and restrained with a stretcher — with a structure. McCoy was trying to bite and chew at the plastic oxygen mask that they had over your face. Do you remember that, Robert?

A I was unconscious. I don't remember none of that.

Q You don't remember none of that?

A None of that. None of that.

Q He refused to obey commands, would not stop fighting against the medical staff so they could treat him.

A No.

Q And, in fact, Robert, in the hospital the records show on 730-09 that you were fighting so hard to continue to try to kill yourself the records show that McCoy remains on the vent, stable. Do you know what that means, Robert?

A No, I remained on the vent because I couldn't breathe on my own. That's why I remained on the vent, sir. Let's not get this construed.

Q Dr. Mark —

A I couldn't breathe on my own.

Q Dr. Mark Vigen will testify, Robert.

A Dr. Mark Vigen is not the doctor at the hospital, sir.

Q May I finish? May I finish? May I finish? And the medical records show, Robert, that you were so intent on killing yourself that they had to shoot you with muscle relaxers and put you out so that you wouldn't try to kill yourself?

A No, sir.

Q That's why you were on the vent.

A No, sir. No, sir.

Q Not because you couldn't breathe, but because –

A No, sir. I —

Q — you were so out of control, Robert, they — they — you were fighting them so hard –

A Uh-huh.

Q —to continue to try to kill yourself that they put — they had to knock you out?

A No, sir.

Q That didn't happen?

A No, sir. No, sir. And to vindicate in that process they was sticking tubes down my nose to try and get it in my body. Just sticking them in there and then eventually I had asked them tell me how to help you because they was telling me I had to swallow with it in order to help the tube go down. But, as far as vindicated fighting, if you will read in the medical report they also

vindicate that I cooperated with them too. It has the aspects on — it will tell you cooperative, uncooperative, so forth and so on. So I mean —

Q Okay, Robert.

A — are you reading from the medical reports or are you just vindicating what the State is saying?

Q I'm — We're reading from the medical reports. Okay, Robert, I have just a few more questions, okay. Now, you indicate — I want to — that Detective Humphrey and the Bossier Parish police are involved in drugs, you exposed them and the reason why we're here is they're trying to get rid of you, correct?

A Yes, sir. Yes, sir.

Q And, in fact, you told — you contacted the FBI, correct?

A Yes, sir, I contacted Mr. J. T. Coleman.

Q And, in fact, you tried to subpoena Mr. Coleman for this trial, right?

A Yes, sir, and they wouldn't let me subpoena Mr. Coleman because Mr. Coleman know everything about their dirty drug dealing activities. Mr. Coleman is a higher authority. Mr. Coleman investigated Mr. Richard McGee doing all the drug dealing aspects. He's investigated Mr. Robert Thomas through all the aspects of this aspiration. But they don't want those individuals to come to court to vindicate the testimony, ladies and gentlemen of the jury, because they've been hiding stuff like this for so long. They've been beating people for so long, ladies and gentlemen.

And that's what they do.

Q Okay.

A They try to beat you to make you confess. They try to beat you to make you submit. I'm not submitting to anything that I didn't do.

Q Okay, Robert. Okay, Robert, I have a few more questions. And also you want to subpoena United States Senator David Vitter, correct?

A Yes, sir.

Q Why do you want David — why do you want David Vitter to come testify?

A I subpoenaed Mr. David Vitter because I also sent Mr. David Vitter my medical records. I know Mr. David Vitter personally and Mr. David Vitter knows everything that goes on with me. When I sent Mr. David Vitter the medical records Mr. David Vitter thought I was Department of Corrections. He sent the Department of Corrections that same medical brochure letting them know how bad these people beat me. He wasn't happy with it. And the Department of Corrections wrote the Internal Affairs in Bossier City and Internal Affairs in Bossier City brushed it off. So I had to write the FBI in Pennsylvania down there by the White House to try and get more aspects to it. And they will tell you now, the Bossier City Sheriff's Department, the Bossier City Police Department and certain aspects of this courthouse is up under federal investigation now, ladies and gentlemen. There's a lot that —

Q Let me stop you. Let me — let me stop you, Robert.

A — they're not telling you all.

Q Robert — Robert, let me stop you. You say that the FBI is investigating individuals in this courthouse?

A Yes, sir.

Q And you're saying United States — David Vitter, does he know all about the criminal activity of Humphrey?

A I told him everything, sir.

Q And — and the other Bossier — Bossier Parish Police Department people that are engaged in drug dealing?

A I told him — I told him everything and that is why they did not want Mr. Vitter to come because Mr. Vitter has nothing to vindicate. Mr. Vitter's going to tell the truth from what he knows.

Q So you believe that if you had been allowed to subpoena United States Senator David Vitter to testify here he would corroborate what you're saying?

A Yes, sir. And if I was able to subpoena Mr. J. T. Coleman he would corroborate with what I was saying. I wrote Mr. J. T. Coleman to subpoena him from Arkansas. Mr. Schuyler Marvin vindicated that my subpoena wasn't valid, but the federal marshal's did not vindicate it. They told me I need to vindicate why I needed this agent to come and testify on my behalf. I did that. They were so adamant about keeping the truth out of this courtroom they told me I didn't go through proper form and fashion to get it. I went through the clerk of court's office to subpoena these individuals.

Q All right, Robert — Robert, I have few more — I have one more questions — a couple of more questions and then I'm going to tender you to the district attorney. You also wanted to subpoena Marcus Hines. Who is Marcus Hines?

A Marcus Hines is a Shreveport police officer that was personally involved in this matter. Mr. Humphrey

got on the stand and straight up lied yesterday about the description of the assailant that was given by the eyewitness. Mr. Marcus Hines — or one of his fellow comrades relayed that description to Mr. Marcus Hines. Mr. Marcus Hines and four more police officers went to my parents' house at 7323 Altus Loop in Shreveport, Louisiana, to vindicate was that me. They looked at a picture and said that that wasn't Mr. McCoy. They called Mr. Humphrey and them back and told them that that wasn't me. But Mr. Humphrey and them was on such of a vengeful rage they sent their whole SWAT Team over to my mom and them's house and Mr. —Mr. —Mr. Hines had already told them it wasn't me. Their description doesn't — does not match me. But they sent them over there anyway. This is personal, ladies and gentlemen. And I thank God that I'm here to tell you all this. They didn't want me to come to trial today, ladies and gentlemen. They didn't want me to come to trial for over three years, ladies and gentlemen. They have been trying to get me to cop out to something that I haven't done. As you see, they have been going around the corners to get to where they want to go, ladies and gentlemens. This isn't fair. This isn't justice, ladies and gentlemens, that we're going through today. The police officers are supposed to uphold the law, not break the law. Ladies and gentlemens, they're breaking the law right up under y'all's noses. They're committing crimes, ladies and gentlemens, right up under y'all's noses and trying to vindicate that because they're authority figures they can do what they want to do. No, it's a rule of law for everybody from the most strong politician to the less powerful individual. It's subject to the law for what he or she does even the ones that's wearing the badge, ladies and gentlemens. They're subject to the law. The law is breaking the law, ladies and gentlemens. We're got rogue cops

among us, ladies and gentlemens. We've got rogue cops amongst us and they know it. That's why they don't want this information into the courtroom, ladies and gentlemen. That's why they have beat me saying I'm trying to commit suicide. Ladies and gentlemens, I love me. I love my family. There is no way that I'm going to admit to three counts of first degree murder when I didn't do it. There is no way that I'm going to vindicate that I was involved in something — the only reason that I'm here today, ladies and gentlemens, is because I was trying to take up for my brother that I love. My brother was collaborating in this stuff transporting drugs back and forth, ladies and gentlemen. My brother which is dead now. You see they didn't mention that to the courthouse. Mr. —

Q Okay, Robert. Robert, I'm going to have to —

A No, let me talk.

Q Okay.

A Mr. Humphrey and Mr. Griffith and Mr. Stewart pressured my brother to the extent that my brother had an aneurysm of the brain. They knew my brother was on drugs, ladies and gentlemens. And my brother was taking all type of medication. My brother passed away. They mentioned my three family members, but they didn't mention my brother, ladies and gentlemens. They're hiding a lot of information from you, ladies and gentlemens. They pressured my brother. They coerced my brother. They kept coming to the house, ladies and gentlemens, to try and make my brother vindicate falsified —

Q All right, Robert.

A — statements on me, ladies and gentlemens.

Q All right, Robert. Okay, Robert.

A I come here to tell y'all the truth, ladies and gentlemens.

Q Okay, Robert. Robert — Okay, Robert. I am now going to tender you to the district attorney if he has some questions for you, okay.

A Okay. Yes, sir.

Q Are you going to answer his questions?

A Yes, sir.

Q Okay.

THE COURT:

Mr. Marvin, I'm going to take a — about a ten-minute recess at this point.

MR. MARVIN:

Okay.

THE COURT:

If you'll all rise for the jury.

MR. SHERIFF:

All rise for the jury.

THE COURT:

Jury do not discuss this.

**(JURY ESCORTED OUT OF COURTROOM)**

THE COURT:

All right, Mr. McCoy, I'll let you go sit back in your seat for just a minute, please, sir.

MR. McCOY:

Yes, sir.

THE COURT:

Thank you, sir. We'll take a fifteen-minute recess.

MR. ENGLISH:

Okay.

MR. SHERIFF:

Court's in recess for fifteen minutes.

**(COURT RECESSES)**

THE COURT:

All right, let's call the court to order, please.

MR. SHERIFF:

You may remain seated. Come to order. Court is in session.

**(COURT RECONVENES)**

THE COURT:

All right, Mr. Marvin, are you ready to proceed, sir?

MR. MARVIN:

Yes, sir, Judge.

THE COURT:

Mr. English, you're present and ready to proceed again, sir?

MR. ENGLISH:

Yes, Your Honor.

THE COURT:

All right. Mr. McCoy is present. Take the stand. Okay. We're ready to bring in the jury, please.

MR. SHERIFF:

All rise for the jury.

**(JURY ESCORTED INTO COURTROOM)**

MR. SHERIFF:

All jurors are present, Your Honor.

THE COURT:

All right. You may be seated. All right, Mr. Marvin, you may proceed, sir.

**CROSS-EXAMINATION**

**BY MR. MARVIN:**

Q Mr. McCoy, which Robert was it that you said committed these murders?

A Robert Thomas, sir.

Q Robert Thomas, okay. Okay. And you said it was because Willie Young owed him $2500?

A It's buying drugs, Mr. Marvin.

Q Okay. Twenty — Let me see if I understand that right, $2500 for drugs?

A Yes, sir.

Q Okay. I want you to listen to this tape just a minute.

**(911 TAPE PLAYED)**

Q Okay. Did you recognize Christine Coleman's voice? Colston?

A I know exactly who she is, sir.

Q But did you recognize her voice on that tape?

A I know exactly who she is, sir.

Q Did you recognize her voice on the tape? It's a simple question.

A I know exactly who she is, sir.

Q Mr. McCoy —

A I don't have to answer the question in your form or —

Q Yeah, you do. You're under cross-examination —

A No, I don't.

Q — buddy.

A No, I don' t.

THE COURT:

All right, Mr. Marvin and Mr. McCoy. Mr. McCoy, you will answer the questions. He has the right to ask the questions. Answer the questions. Your attorney will have the right to redirect in a minute. All right, you may proceed, Mr. Marvin.

MR. MARVIN:

Yes, sir.

A I recognize the voice, sir.

Q You did. Okay. Why on that tape isn't Christine Colston at any point saying, we don't have the money? We don't have the $2500? Or we only have $500 of it?

A I can't speculate that, Mr. Marvin.

Q Really?

A No.

Q Well, you speculated to an awful lot thirty minutes ago?

A No, I ain't speculating. I'm telling you something that I know that you should have told the people a long time ago.

Q I'm just wondering why Christine Colson — Colston kept saying she's not here, she ain't here, Robert.

A Whomever wasn't there, an occupant of that house, whomever — I'm not speculating who that was, but it was more than three people in that house at one point in time. And there was another female in that house, Mr. Marvin, as you know and your documents vindicate as well, sir.

Q Well, I'm just wondering why Christine Colston, whose voice you've identified, never referred to anything about drugs or anything about money for drugs or any debt that was owed. Her whole response to the dispatcher that we heard, that I heard, and I hope you heard –

A I heard.

Q — she's, she's not here, Robert. She's with the detectives. The detectives got her, Robert. She ain't here, I swear to God.

A Okay.

Q So why didn't — anywhere on that tape was there not a mention of the — the money?

A So you're asking me to speak for her? I can't do it, sir.

Q Do you have an idea? Do you have any idea?

A No, sir. No, sir, I can't speak —

Q None?

A — for her, sir.

Q Okay, that's fair enough. And — and the — the beatings that you suffered, you understand that the Bossier Maximum jail facility is operated by the Bossier Sheriff's Office?

A I know it's operated by Mr. Larry Deen. I have sued him on a couple of occasions for the aspect of denying that he knew nothing of it. And they've got a past history of beating people.

Q Okay. Yes or no, do you understand that it's operated by the Bossier Sheriff's Department?

A I understand that.

Q Okay. Do you agree that this triple homicide case that occurred inside the city limits of Bossier City has been investigated solely by the Bossier City Police Department, not the sheriff's office?

A Well, that's what they say.

Q Okay. But you understand that no Bossier City police officer has anything to do with the management or any policies up at that Bossier Max whatsoever?

A Law enforcement corresponds, Mr. Schuyler Marvin.

Q Okay. So you believe –

A So that picture that you're drawing is insufficient. They — they — they correspond. They do everything together, sir.

Q So any police agency anywhere even in Idaho —

A They cor — they correspond.

Q So, I need you to go plant some evidence —

A Law enforcement is law enforcement.

Q — in a murder case?

A Law enforcement is law enforcement, sir.

Q Okay. Now, Officer Roberts had testified yesterday from Idaho.

A Uh-huh.

Q He didn't really strike me as somebody that would do something like that?

A Well, don't nobody strike you that's going to do something like that when they're in your favor, sir.

Q Okay. Because that's — that's a big deal.

A But Mr. Houston struck you to be a different person when you started bringing up his background when he wasn't saying what you wanted him to say on the stand, sir. But he struck you to be that person, but at first he didn't because you subpoenaed him to come. But after he was saying what you didn't want him to hear or what you didn't want the potential jurors and the vindicating people to hear, oh, it was a different aspect then. And also Ms. Moore was the same aspect.

Q Okay. You know that subpoenas are how we get people to come to court?

A Well, Ms. Moore specifically stated —

Q You know that Detective Humphrey has a subpoena to be here today?

A Oh, I got the subpoenas on my thing over there, sir.

Q Okay.

A I'm very familiar with everything that's going on. You subpoenaed like twenty-four people, but didn't nothing but twelve or thirteen come. You're trying to intimidate a person to make you think you have more

than what you have, sir. Your tactics are not working, Mr. Marvin.

Q You had a conversation with Sharon Moore on or about May 5th, yes or no, over a cell phone?

A May the 5th?

Q Uh-huh.

A No.

Q Of 2008?

A No.

Q None?

A None.

Q That was your buddy that had your phone?

A It was — As I told you it was between the 4th and the 7th when I spoke with her.

Q Okay. Well, the 5th is between the 4th and the 7th.

A Yeah. No, no particular conversation on that night, sir.

Q Okay. So the conversation that she testified about under oath is a lie?

A You got her to lie.

Q I did?

A Yes, you did.

Q Okay.

A You get everybody to lie. If they don't lie, they go to jail. Oh, and as a matter of fact, to bring the issue to the courtroom, do you remember Mr. Josh — Mr. Vasquez that you got to try to perjure Mr. Willie Young to get Mr. Willie Young two life sentences in jail

that you got an inmate to lie on another inmate that Mr. Brian Griffith got Mr. Josh Disotell to lie and say that I told him that I killed my family in the jail. That's the type of stuff y'all do, sir. That's the stuff — type stuff y'all do and admit it into the courtroom — admit it into the courtroom. So, for the record, Mr. Marvin, did you or did you not know that, sir?

Q You know what?

A You ain't going to answer.

Q You're right.

A I know it because it's the truth.

Q I recognize one name in there, Willie Young. He's serving two life sentences for killing two people.

A His name is Willie Jones, sir.

Q Willie Jones. That's the same guy we're — you're talking about?

A You know who I'm talking about. You're very familiar with who I'm talking about.

Q So he didn't get the punishment he deserved, I assume?

A Well, I can't quote a sentence for somebody else, but that's what you're trying to do, quote the sentence for someone else. I mean who made you the judge and the jury.

Q I'm not the judge and the jury. Mr. McCoy, on May 5th, 2008, were you employed? Did you have a job?

A I was employed way before that aspect. I told my employee after —

Q No. No. On May the 5th, did you –

A Excuse me.

Q — have a job or had you left it — your job?

A I was on leave, sir, because I told my employees about what was going on. Mr. Humphrey and his crew so vaguely put a warrant out —

Q So to answer my question in a simple form, no, you were not employed –

A Well, no, you can't —

Q —on May the 5th?

A I'm answering your question, but you can't stop me from talking, sir.

MR. ENGLISH:

Your Honor, Your Honor — Hold on, Mr. McCoy. Mr. McCoy. Your Honor, I have just a simple objection. I would ask the district attorney to allow him to answer the question.

MR. McCOY:

That's right.

THE COURT:

All right, Mr. McCoy —

MR. MARVIN:

Well, it's a yes or no question.

THE COURT:

All right, Mr. Marvin and Mr. English. Mr. Marvin, I will sustain. Mr. McCoy —

MR. McCOY:

Yes, sir.

THE COURT:

— answer the question. You'll be allowed to expound on the answer at the proper time.

MR. McCOY:

Yes, sir.

THE COURT:

All right. So answer the question directly, then you'll be allowed to expound on that answer.

MR. McCOY:

Yes, sir, Your Honor.

THE COURT:

— at the proper time.

MR. McCOY:

Yes, sir.

THE COURT:

All right. Thank you.

Q My question is a simple yes or no. Either one of the two will do.

A Redirect your question, sir.

Q I'll do that. Did — Were you employed on May the 5th, 2008

A I was on leave, sir.

Q Okay. So your answer is no?

A I didn't say that, sir. You — you're trying to answer for me. I'm telling you I was on leave.

Q Okay. Well –

A So I was on leave means I wasn't there at the present point in time, sir. I received no pink slip. I re-

ceived no aspects of my employer telling me that I was terminated.

Q You simply just didn't go back to work?

A I gave him a valid reason why I wasn't coming. They know about Mr. Humphrey and them. Mr. Humphrey and them went on my job trying to arrest me, sir.

Q Let me ask you another way then. Were you getting a pay check on May the 5th for any labor that you performed for anybody?

A My pay checks go direct deposit, sir.

Q Were you getting a pay check for any labor that you performed for anybody on May the 5th?

A No, sir.

Q All right. This can be simple. I ask the questions –

A Well, please —

Q Answer my question. That's all I ask. I don't need a big long explanation about anything. It's very simple.

A Well, you can't tell me how to talk, Mr. Marvin. I've got freedom of speech, sir. But I'm going to vindicate what the judge said.

Q All right. Stop. I ask questions. You answer them. Okay. Did you know Gregory Colston?

A I knew him well, sir, and I loved him.

Q Did you know today's his birthday? You didn't know that, did you?

A No, sir, I didn't.

Q Did you shoot him between the eyes with a .380 caliber pistol?

A No, sir, I didn't and never would have.

Q Did you shoot Christine Colston?

A No, sir. And I didn't shoot Mr. Willie Young neither, sir, if that's where you're going.

Q Did you shoot Willie Young?

A No, sir.

Q And you're not responsible for their deaths?

A No, sir, in no way, form or fashion.

Q And if Sharon Moore wouldn't have come in here and lied on you, and Gayle Houston wouldn't have come and lied on you, and Officer Roberts from Idaho wouldn't have lied on you, and all these Bossier City officers, and Ms. White from the crime lab wouldn't have lied — Did anybody come in here and tell the truth besides you?

A I can't speak for nobody else, Mr. Marvin. I can't speak for nobody else. But there's no one that can put me on the scene of this crime, sir, and you know that. And that's what has to be done in order to convict me. You have to put me on the scene of this crime and you can't, sir.

Q Really?

A Oh, most definitely.

Q Okay. Wait around a little while. Have a good day.

A I will. You too.

THE COURT:

Ladies and gentlemen —

MR. ENGLISH:

Your Honor, I think it's important that I note an objection to that last statement. It was argumentative and uncalled for, Your Honor.

THE COURT:

All right. I will sustain that objection and instruct the jury to disregard that statement. And also, ladies and gentlemen, there will be no outbursts in the audience. Even though it was not a loud outburst, I will not allow any outbursts from the audience. Mr. English, do you want to — wish to redirect, sir?

MR. ENGLISH:

No redirect —no redirect, Your Honor.

THE COURT:

All right. You may step down, Mr. McCoy, and go sit next to Mr. English, please, sir.

MR. McCOY:

Thank you, sir.

THE COURT:

Any other witnesses, Mr. English?

MR. ENGLISH:

The defense rests, Your Honor.

**(DEFENSE RESTS)**

THE COURT:

All right. Mr. Marvin?

MR. MARVIN:

We offer no rebuttal. We're ready for closing arguments.

THE COURT:

All right. Ladies and gentlemen, prior to going to closing arguments, I'm going to give another ten-minute recess for the jury.

MR. SHERIFF:

All rise for the jury.

**(JURY ESCORTED OUT OF COURTROOM)**

* * *

**(MARVIN – CLOSING ARGUMENT)**

MR. MARVIN:

**(TAPE OF 911 CALL PLAYED FOR JURY)**

Ladies and gentlemen, that right there was the last thing that Gregory Colston heard in his life was his grandmother screaming, "She's not here, Robert. She's not here." Willie Young was probably already dead at that point. Now, I told you in my opening statement what the State would provide and I submit to you we've carried our burden. Robert McCoy chose to be here. His willingness to take the lives of three innocent victims entitles him to a seat at the defendant's table. He earned the right to be here. Those victims didn't choose to become victims. They had no choice whatsoever in any of this. Now, those three victims: First of all, Christine, whose voice you heard, I'm sure she was a strong lady. I didn't have the privilege of knowing her during her life, but she had to be pretty strong because you heard her refusing to tell Robert of Yolanda's whereabouts. And as it turns out, Yolanda was gone. She -- she had left. But Christine obviously had great love for Yolanda or she would have given up her whereabouts. Now, Yolanda, which you haven't met yet, is Gregory's mother. He would have been 21 years

old today. When you turn 21 in Louisiana a lot of things happen for you. You're able to get on the casinos. At eighteen you do a lot of things. Join the military and do some other things, but at 21 that's it. And if Greg were alive today, by all likelihood, he would be in college and have all the freedom of the world. But he doesn't. Now back to Yolanda. She made a very difficult decision in May of 2008, to get out of town and get away from Robert McCoy. But she had Greg who as a senior at Parkway High School and whose graduation was set near the end of May in 2008. So, rather than take him with her and upset his graduation she allowed him to say with his grandmother and finish the school year. Now, I know Yolanda knows this and if she could take that decision back she would. But she can't. So this capital murder case is not just about Greg Colston. I want you to understand that. It's horrible what happened to him. But this is about Willie Young and Christine Colston as well. Now, in the voir dire process we talked about different ways a case could be first degree. That it can be the killing of a police officer in the line of duty or killing somebody over sixty-five. We don't have any of that here. We have not alleged any of that. This is capital murder because more than three people were killed at the same time. And I told you in my opening statement that it's been eight and a half years. I've never sat in this courthouse and asked a jury to impose the death penalty since I've been elected district attorney. And we might should have gone to a little bit more of this during voir dire, but second degree murder – a lot of y'all talked about premeditation. And in Louisiana second degree murder, the definition of it is the same as first degree murder, the definition of it is the same as first degree murder: The killing of a human being when you have specific intent to kill or inflict great bodily harm. The only difference is, the only thing that makes

it first degree as opposed to second degree is when you kill more than one person at the same time. So, if a person out there in the audience looked at a person on the sidewalk and said, you know what, next Thursday at three o'clock I'm going to kill that guy and he goes to the store and he buys a gun, he buys some bullets and he goes to the target range and takes practice with his new gun, gets real good at it, goes to the clothing store and buys him a black ski mask and some fast tennis shoes so he can run away from them, and on Thursday at three o'clock he walked up to the -- walks up behind the guy and shoots him in the back of the head and kills him, that's second degree murder. The death penalty is not available, only a life sentence. This case is capital because more than one person was murdered. Now, Robert McCoy, on the other hand, look at his actions, judge his testimony as you heard from the stand, and I will get back to what he did in a minute, but what he did after these murders. What did he do? He fled. He got in that white car and drove away at a high rate of speed. You heard Officer Szyska tell you what he did and you saw it. You saw it on the video. Evidence of flight, concealment and attempt to avoid apprehension is relevant. If you find the defendant fled immediately after a crime was committed or after he was accused of a crime, the flight alone is not sufficient to prove that he's guilty. However, flight may be considered along with all -- all the other evidence. You must decide whether such flight was due to consciousness of guilt or to other reasons unrelated to guilt. Ladies and gentlemen, the State has proven that Robert McCoy's flight shows consciousness of his guilt. He was getting out of Dodge. At this point in the trial -- Let me back up a minute. Back during voir dire a lot of people again used the word premeditation or motive. And that's a natural reaction -- normal reaction to being put in your posi-

tion. It's natural to want to know, well, why -- why did they do that. Why did the person do a certain thing? Well, you will never hear the judge instruct you that we have to prove motive. The State doesn't have to prove it. All we have to prove is if the offender, Robert McCoy, had a specific intent to kill or to inflict great bodily harm upon more than one person. And you have to find that three times. We have three -- three counts here. Dr. -- I mean -- Yeah, Dr. Taylor told you -- Let me make sure I tell it right. Dr. Taylor told you that Willie and Greg -- Gregory had intermediate gunshot wounds. I didn't really know what intermediate meant. I kind of did, but -- So I asked him. From six to eighteen inches away. Six inches is about that far. Eighteen inches is about this far. They were shot in the head. So this is not a situation where anyone is going to argue to you that this was some kind of accidental event. This was a planned event. How do we know it's planned? We know it's planned because Sharon Moore told you Robert McCoy came to her house, asked her to borrow some money. Robert McCoy finally admitted that he wasn't working, didn't have any money. He wanted some money from her. What did he need money for? Five bullets, of course. You don't need any groceries or anything like that. You need bullets on the afternoon of May the 5th. Where did he get the money? She didn't give him the money. She told us that. Where did he get the money? I don't know. Mr. McCoy would probably argue to you I'm supposed to -- have to prove that too. But I don't have to prove that because we saw him in the Wal-Mart a few hours later buying bullets. Mr. Upshaw, I believe his name was, from Wal-Mart identified the -- the receipt that Officer Szyska found in the back of that white Kia. And Mr. Upshaw, in his capacity as a loss prevention employee of Wal-Mart, can identify that receipt and tell you exactly where it came

from, what store, what register, what time, how it was paid for, and you saw it on the screen. What did he -- what did he buy? Bullets. Same day, May the 5th, 2008. Now, Robert's version is interesting. And I've heard a lot in my career of doing this and there's always, things that don't match up in those kinds of stories, which is what they are. I'm sure Senator David Vitter or someone from the White House would be here and rat out all these nasty, dirty cops that we've got around here and we could clean everything up. They're all in cahoots to get him, of course, and frame him. I don't know why Ms. Colston's voice if this was a drug deal-- and there's no evidence of that whatsoever. These are just things you can just cherry pick it and pick some kind of wild hair version of something and say that's what happened. And apparently there's more Roberts involved in this case than any other case I've ever handled because Mr. McCoy has an excuse for where all the Roberts were on that night. Back to Yolanda for a minute. I don't know what would have happened had Yolanda been in that house that night. I have a good idea. I don't know what would have happened to Christine and Willie and Gregory had Yolanda had been there. Had he just taken Yolanda or had he just killed Yolanda or had he killed her and then killed all three of them as well to keep them from talking about the murder of Yolanda. I don't know. But I submit to you that those three victims would probably have still have been murdered by Robert McCoy. So why did he do it? If you'll get back to motive and say, well, why, why would he do it? Most of our murders around here are for money or -- or drugs. He's got a point there. There is -- there's some drug activity and murders are involved with that. So did he kill them -- did Robert McCoy kill those three people for money, to rob? Mr. Young still has his -- what looked to be a pret-

ty valuable watch on his hand and a ring on his finger. Or is it just like we heard on the 911 tape. Is it -- is it because they wouldn't tell him where Yolanda was? I don't know why Christine would have kept saying that. I don't know why she would have said, "She's not here, Robert. She's not here. The detectives have got her." Why the detectives? Because Detective Humphrey was hunting high and low for Robert McCoy personally. He had a warrant. You saw the warrant on the screen for aggravated battery. Domestic violence, a felony. Now, this -- And you know, some people might say, well, you know, the cops got a warrant, they put it in the computer system and the guy gets stopped in a traffic stop somewhere. Maybe they'll catch him. Maybe they won't. You know, cops don't work real hard. They just sit around behind a desk all day long. Well, Detective Humphrey, while he's working his second job on his security, he's told you – he's testified that he's told all these other officers be on the lookout. Anything that happens over there around Grace Lane look for the four-door Kia, four-door sedan with paper plates on it. That's Robert McCoy and I've got a -- I've got a warrant for him. Not only that, the night of May the 5th Detective Humphrey told you that he heard the call. The dispatcher says something to the effect any units, you know, in the area of 19 Grace Lane go respond and see what happened. We've had a 911 hangup call. Don't know -- don't know what it is. And the -- the representative from 911 told you that that's their policy. When we get a 911 hang-up call we dispatch a unit, whatever agency is in that jurisdiction, and go see what caused it. So, Detective Humphrey at that point immediately -- immediately got on the radio, the police radio, while he's off duty and radios Kary Szyska if you're responding look for that white car; look for that white car, paper plates, four-door car. And then you got to see

with your own eyes -and I'm very proud. We don't -- It's not all the time that we have as much video and -- and -- for trials like this. But you got to see Kary Szyska driving -- he was almost at 19 Grace Lane and here comes a white car in the opposite direction speeding past him. You saw him turn his police unit around and give chase. And I think you could tell from the video that the car was moving very fast. And he's pursuing the car. He told you that he had his lights on. And then you hear Officer Szyska immediately before he exits his car, he's bailed out. He's running. I've got -- He's going to run. And you see a figure jump out of that white car and run briefly in front of his camera on his car and run into the darkness. And you can see Officer Szyska get out of his unit and give foot pursuit. So, why did all this happen? You know, still getting back to motive. Again, I don't have to prove it and I'm not going to harp on it much longer. But why were these people murdered? There is a phrase for what this is -- this set of facts is called in the law and in society, it's called gratuitous violence. Gratuitous violence means you do it for free. You do it because you can. You don't do it for robbery. You don't do it for -- you've come home and catch your spouse in bed with another person. You don't do it out of rage. You do it because you can. Gratuitous violence, it's the worst kind of violence. That's what Robert McCoy is all about. I can tell you. Because there is no other intent, no other specific intent that you have in your mind when you place a .380 caliber handgun that far away from somebody and pull the trigger than to take their life. Now, I remember Dr. Traylor telling us ironically that Christine, her gunshot wound, was at close range. I said how close. What does close range mean? He said, well, close. No. He said one to two inches away. One to two inches away from her head that caused that

blast to break the skin into her face. Now, back to Yolanda. I want you to think about what she's had to go through. Who do you think had to go to the funeral home and pick out three caskets? I didn't do it. Detective Humphrey didn't do it. It's not our responsibility. Yolanda did it. Who do you think had to go to the bank, walk in to the bank teller and say, my mother -- I need to close her bank account. Really. Why? I liked your mother. She was a good customer here. Well, she was murdered. So who do you think had to do all that? Now, I told you in the beginning and I'm telling you now again, every murder case is not a death penalty case. Put that away for right now because I'm not asking for the death penalty at this point in time. I'm asking you to convict Robert McCoy of first degree murder. The State has carried its burden of proof. Each of you swore to God and told me under oath that if I carried my burden you could convict him of first degree murder. And we have done that. It takes all twelve of you to do that. So, I encourage you to talk amongst yourselves as much as you deem it necessary about this. And I hope that I've answered every question in every one of your minds. I told you in the beginning if I asked stupid questions and prolonged it, I'd apologize, but I don't know what's going through all twelve of your minds. But Judge Cox will instruct you that my burden of proof is beyond a reasonable doubt, not beyond all possible doubt, but beyond a reasonable doubt. There is -- there is no other doubt in this case for which you can give a good reason because there is no reasonable doubt here. This is murder and Robert McCoy did it. I'm asking you to convict him of three counts of first degree murder. Thank you.

THE COURT:

Mr. English, please.

**(ENGLISH - CLOSING ARGUMENT)**

MR. ENGLISH:

When we were picking a jury we all agreed that in these cases, capital murder cases, the facts would be so horrendous that they would challenge who we are; that they would challenge our humanity and they would go to the very core of what we believe as a community, as families, as a society. There are three victims in this case and our heart cries out to them as it should. And Mr. Marvin and the victims' family is here in court today looking for justice. That's what Mr. Marvin's job is to represent you and me and this State and the victims in this case because the law requires -- We require as a society that they receive justice. Civil society is too fragile to demand anything less. But we are a unique country. We have taken that word justice further than any country in the history of the world. And we add words to it that says "and justice for all". And justice for all. I told you when I stood in front of you that the stakes were too high, the loss was too great, that this process that we have put in place demanded that I stand in front of you and told you that after you saw the evidence in this case no reasonable person could come to any other conclusion than Robert McCoy was the cause of these people's deaths. So, I took that burden off of Mr. Marvin. I took that burden off of you. And the evidence said what Mr. Marvin said it was going to be and it said what I told you it was going to be. But I told you all something also. I told you, listen, I had to talk to you in language we could understand. Robert McCoy is crazy. He's delusioned. He's paranoid. He's wracked by conspiracy. And justice cries out and must be demanded for Christine Colston and Willie Young and young Gregory. But in this country, this great

country of ours, we went a step further. We said and justice for all. And let me tell you that's tough. That's tough. That's tough to live up to. That's a tough ideal to live up to. When I was giving you hypotheticals earlier in this process of some of the most vicious and inhumane crimes that a human being could inflict upon the other, you answered and we all made a promise, but we have to listen to the evidence and we have to apply the law. There is no way you can sit in this courtroom and listen to this evidence and not be emotional. There's no way you can sit in this courtroom and look at the autopsy reports of young Gregory Colston and not weep. My heart weeps for him. My heart weeps for Willie Young. My heart weeps for Christine Colston. All of us do. But I told you, and we agreed, you've got the tough part of this deal because the law requires you to put aside emotions, passion and prejudice and apply the evidence. We -- we agreed there's a reason we just don't take an individual out and shoot him or cut their hands off or cut their heads off. We, as a society, demand that twelve of our peers sit in this room, wrestle with the ugliness and apply the law. The judge is going to read you some instructions and they're going to say you are not to be influenced by sympathy, passion, prejudice or public opinion. You are expected to reach a just verdict in this case. From the moment I stood up in front of you this case was never about whether or not Robert McCoy was guilty or not guilty. I'm his defense lawyer. I told you this case was about whether or not Robert McCoy has the specific intent to commit first degree murder. Yes, the law says if he kills three or more people. That's there. That's evident. There's no argument about that. But the law requires does he have the specific intent. Ladies and gentlemen, Robert McCoy is so defective emotionally. He is so defective mentally. You -- you saw him on the stand. Robert

McCoy doesn't have the mental capacity to form a specific intent. As horrendous as the crimes were -- Mr. Marvin says the motive, the motive, the motive. No evidence was put on why he killed those people. No evidence was put on that he had any malice toward them or he had ever threatened them. The truth of it is we don't know why he killed those three people. But the law requires that you have specific intent. And the law requires that we apply the evidence and the facts of this case. And the law requires that no matter how repulsive we find Robert McCoy's acts, the law requires that you put your emotion aside and you apply the law and the facts. Robert McCoy believes that Detective Humphrey and the Idaho Police Department and Schuyler Marvin and everybody else is out to get him. Robert McCoy has looked at this evidence, sits in this room -- This is the not the first time he's seen that evidence. And Robert McCoy is so emotionally and mentally defective he believes that he was in Houston, Texas, when the evidence is overwhelming that he was in Bossier City. He believes that Sharon Moore lied against -- on him. He believes that Gayle Houston is lying. He believes that the Idaho Police Department called Detective Humphrey and said we got that boy. What you want us to do? And Detective Humphrey said plant a gun on him. He believes that the Bossier Parish Police Department -- he exposed them for drugs. You listen to him. He believes it. I've lived with this man for three years. Believe me, he believes it. And as horrible as it is, you have to determine whether or not he had specific intent to commit three murders. And I submit to you that Robert McCoy is such a defective, pathetic figure, it's not there. This is a second degree murder case. Justice demands -- justice demands that Robert McCoy stand before us and atone for the murders of those individuals. And as much as we want to

run out of this courtroom and scream from this ugliness and want vengeance and want to inflict the worst kind of pain and misery we can on Robert McCoy, we live in a society that says and justice for all. We can't stop - You can't stop at Christine. You can't stop at Willie. You can't stop at young Gregory who didn't get to go to his prom, didn't get to meet the woman that he would spend the rest of his life with. As painful as that is, the law says you can't stop. You've got to apply justice to Robert McCoy. The reason why we are so great, the reason why we have the greatest civil society in the world is because twelve people from our community are required to put aside all the passion, the need for vengeance, the need for atonement, the need to bring somebody back and apply the facts. Specific intent. Specific intent. Did Robert McCoy have the specific intent to kill those people? We have no motive. We have no rhyme. We have no reason. It hasn't been put in here. Mr. McCoy (sic) can play the 911 tape because it retches at our heart and it is horrible, but it doesn't establish specific intent. This is a second degree murder case. As painful as it is, you have to judge this man on the stand and you have to judge his mind and his emotional state in making your decision. And if you find that Robert McCoy on that stand was paranoid, delusional, wrapped up in his own world, then I think you have to find that first degree murder is not appropriate; that second degree murder is appropriate and that Robert McCoy spend the rest of his natural life in jail. It ain't easy. None of us want to be here. None of us want to be here. And no one in this courtroom envies you. But you speak for us. You speak for society. You stand between the barbaric -barbarism. I say it to you, you keep our humanity. You keep our humanity as the law requires you to put all the human passions that we feel in this case aside and the law requires of you

that you have to apply the facts. And the facts are Robert McCoy's delusional, he's paranoid, he's suicidal. My Lord, the man tried to commit suicide by chewing his arm off. He's crazy. He could not have formed the specific intent to kill those people. He's incapable as painful as that may be; as much as we may want it. He's crazy. And that's -- It is what it is. I ask you, the law demands, society demands, this community demands that when you go back in that room put aside all that we feel, and you, as judges in this case, you apply the law. I believe that the facts of this case are that Robert McCoy doesn't have the specific intent to kill those people. He killed them. I never lied to you about that. I never lied to you and told you that the evidence wasn't going to be tough. I told you Robert McCoy was crazy. I didn't lie to you about that either because you got to see and you got to hear the sordid evidence. People who try to kill themselves five times, people who chew their arms off, people who stuff toilet tissue down their mouth -- down their throats, people who hang themselves, people who believe that the people who protect us, the FBI, the Bossier Parish Police Department, are all in a collusion to kill them, to get them, they're not with us. And justice for all. And justice for all. It's a tough one. It's a tough one to live up to. I ask you -that's my job in this -- to apply the facts of this case, to divorce yourself from the emotions and the passions and remember the individual that you saw on this stand under my questioning, not his questioning. Under my questioning. And that you reach a conclusion that he did not have the specific intent to kill these people; that he is guilty of second degree murder and that he should spend the rest of his natural life in jail. Thank you. Thank you for your time.

THE COURT:

Mr. Marvin, rebuttal, please.

MR. MARVIN:

Just briefly, Your Honor.

**(MARVIN - REBUTTAL ARGUMENT)**

MR. MARVIN:

Well, ladies and gentlemen, I want to say first of all Mr. English has done a good job. I'd be the first one to say he didn't have much to work with, but he did -- he's done a good job and he's argued exactly what I expected him to argue to you. But the problem with that is that you should come back with something less than first degree. The problem with that is -- let me back up just a bit. The responsive verdicts that Judge Cox will give you in a moment are guilty of first degree murder, guilty of second degree murder, guilty of manslaughter or not guilty. Okay. Now, this mental deficiency that Mr. English is arguing to you now that Mr. McCoy allegedly has is something that he's telling you that prevents him from forming specific intent and specific intent is required. Well, specific intent is -- in the instructions Judge Cox will give you in an minute is this: Specific intent is that state of mind which exists when the circumstances indicate that the offender actively desires the prohibited criminal consequences to follow his acts. And then it defines general intent. General intent is present when the defendant may not actively desire, but he knows or should know that the criminal consequences are reasonably certain to follow his actions. Some crimes require that you find the defendant had specific intent, while others require only general intent. Specific intent means you intended to do what you did. That's it. That's a fancy way of saying it, but that's what it is. And the problem with Mr. English's

argument if you carry it on out is -- And Judge Cox will tell you. He's going to define for you what's first degree murder and what's second degree murder and what's manslaughter, and finally, not -- you obviously know what not guilty means. The problem with that whole argument is second degree murder is a specific intent crime. It's not a general intent crime. Second degree murder is the killing of a human being when the offender has the specific intent to kill or inflict great bodily harm. The difference is more than one person dies at the same time. Second degree and first degree have the exact same definition. They're both specific intent crimes. So his argument to you just go in there and find him guilty of second degree and give him a life sentence and let's all go on down the road won't fit because second degree murder is a specific intent crime. So, go ahead and let's argue it all the way through. Let's go to manslaughter then. Just give him a manslaughter sentence. Manslaughter -- To convict him of manslaughter you must find that the defendant killed Willie Way -- Willie Ray Young and that the defendant had a specific intent to kill or inflict great bodily harm. There's the words, specific intent, in the definition of manslaughter; and that the killing was committed in sudden passion or heat of blood immediately caused by provocation -- Provocation, somebody provoked you into doing something -- sufficient to deprive an average person of his self-control and cool reflection. And in -- in the jury selection process some of y'all-- We brought up manslaughter. You come home and catch your spouse in bed with another person and lose it. You completely lose your cool reflection and you react, grab a gun and kill them. Kill your wife or husband. Something happened that provoked you into doing that. That will -- So you know that manslaughter won't fit because it's specific intent and there's no provocation

here. There's no evidence that any -- that Christine Colston provoked him into doing anything. There's no evidence that Willie Young provoked Robert into killing him. And there's no evidence that Greg did anything that provoked Robert to put that gun six to eighteen inches from his head and pull the trigger. There's no evidence of that at all. All right. So you've now kicked out second degree murder as an available verdict for you and you've now kicked out manslaughter. That's not available because it's specific intent and there's no provocation. You know what that leaves you? Not guilty. That's your only other responsive verdict. Go in the jury room and convict him of first degree murder three counts. Thank you.

THE COURT:

Ladies and gentlemen, this is the State of Louisiana versus Robert McCoy, Criminal Docket Number 163,572, Twenty-Sixth Judicial District Court, Bossier Parish, Louisiana. This is the charge to the jury.

* * *

Mr. English:

Yes.

The Court:

The jury has sent a question that they would like to see, in order, the videos of -- in order of Wal-Mart, the chase, arrest on August 4th, 2011. That would be Video S-1. The video from the Szyska car, Video 53, S-53, and Video -- which was S-75. And I would show that to them in the courtroom. Mr. Marvin, do you want to -- We've got to be able to play it. Do you have your computer available or --

Mr. Marvin:

Yeah.

The Court:

All right.

The Court:

Mr. English, any objection to that?

Mr. English:

No, Your Honor.

The Court:

All right. Do we have the videos up here or do you have them on the computer already?

Mr. Marvin:

We have all of them.

The Court:

All right. Is the screen up and ready? All right, making sure. We're going to S-1 first, which would be the first video, which would be the video form the Szyska car. Then we'll do the next video which would be the Wal-Mart video and then the arrest video in Idaho. All right. Are y'all ready to proceed, Mr. Marvin?

Mr. Marvin:

Hold on a minute. Let me make sure. We're ready.

The Court:

Is that at the beginning on that video?

Mr. Marvin:

Yes, sir.

The Court:

All right. All right, is the jury ready?

Mr. Marvin:

Your Honor, my secretary informed me that last video has to build so it takes it two or three, four minutes to, you know, load itself up before it will play. So there may be a delay in between the second and third.

The Court:

Is that agreeable, Mr. English?

Mr. English:

I – I object. It's agreeable, Judge. I just wanted to be disagreeable, but I –

The Court:

Thank you, sir. All right. Another request is to see the sketch of the apartment. We can place that on the -

-

Mr. Marvin:

That's just a document. They can take that in there with them.

The Court:

Was that a document that was –

Mr. Marvin:

Yeah.

The Court:

He put that on the projector?

Mr. Marvin:

Well, when I was questioning the witness I did, but I --

The Court:

I need to get you next to a microphone, Mr. Marvin, just to make sure --

Mr. Marvin:

But I offered the document itself into evidence --

The Court:

All right, sir.

Mr. Marvin:

-- with Sage Allen.

The Court:

I'm trying to find it on the --

Madam Clerk:

Forty.

The Court:

Forty. And it is a document?

Madam Clerk:

Yes, sir.

The Court:

All right.

Mr. Marvin:

Is it marked?

The Court:

It is marked as S-40. I was just trying to find it on my exhibit list. And they would be able to take that into deliberations.

Mr. English:

No objection, Your Honor.

The Court:

All right. Then I'll allow them to take it into deliberations. All right, are they ready?

Mr. Sheriff:

Yes, sir.

The Court:

All right. Bring them in, please.

Mr. Sheriff:

Please rise for the jury.

**(JURY ESCORTED INTO COURTROOM)**

Mr. Sheriff:

All jurors are present, Your Honor.

The Court:

Okay. You may be seated. All right, ladies and gentlemen, I received a question, "May we see, in order, the videos of Wal-Mart, chase, arrest?" And we will play those videos in the courtroom for you in the proper order which was the chase, Wal-Mart and then the arrest. So, we will play those videos. Then before you came in -- it said, "May we see the sketch of the apartment rooms?" And what we will do is allow you when you go back into deliberations take the sketch that was entered into evidence under S-40 into deliber-

ations with you at that time. So, at that time, I would ask that the video under S-1 be played, please.

**(VIDEO S-1 PLAYED FOR THE JURY)**

The Court:

Okay. Now, I would ask that the Wal-Mart video be played, please.

**(VIDEO S-4 PLAYED FOR THE JURY)**

**EXCERPTS OF AUGUST 5, 2011 TRANSCRIPT RE SENTENCING PHASE OF TRIAL**

* * *

MR. MARVIN:

I have, Your Honor, and I've given your clerk a couple of extra copies and Mr. English a copy.

THE COURT:

All right. And, Mr. English, you filed your mitigation statement, is that correct, sir?

MR. ENGLISH:

That's correct, Your Honor. And I have also given the clerk a copy and Mr. – the district attorney a copy.

THE COURT:

All right. Before I bring the jury in, ladies and gentlemen, I know that it will be an emotional day. Mr. McCoy, I know it's going to be an emotional day, sir.

I'm going to ask that you stay in your chair –

MR. McCOY:

I'm asking now, Your Honor, to be removed from the courtroom.

THE COURT:

I cannot do that under the law, Mr. McCoy, so I'm letting you know that ahead of time. I'm asking that you restrain yourself and stay in your chair, please, sir. And you are to be present according to the law.

MR. McCOY:

Yes, sir.

THE COURT:

All right. So I'm asking –

MR. McCOY:

But also, Your Honor, I'm – I'm –

THE COURT:

Mr. English –

MR. McCOY:

I want to make this clear on the record, Your Honor. Give me a minute, please.

THE COURT:

Mr. McCoy – Mr. McCoy

MR. MCCOY:

Your Honor, I have been totally –

THE COURT:

Mr. McCoy –

MR. McCOY:

– set up in this matter, Your Honor. Mr. English has piss-poorly represented me.

THE COURT:

Mr. McCoy, before you –

MR. McCOY:

Mr. English has not did anything –

THE COURT:

All right.

MR. McCOY:

– Judge Cox, to vindicate my innocence. Y'all – y'all are railroading me, Judge Cox. You know it.

They haven't done anything in my aspect. This is the first trial –

THE COURT:

Mr. McCoy, I'm trying to stop you at this time to advise you that you have the right to remain silent, you have the –

MR. McCOY:

And I understand.

THE COURT:

– right to not discuss any of this in front of the courtroom.

MR. McCOY:

I need to, Your Honor.

THE COURT:

This is being recorded.

MR. McCOY:

I need to, Your Honor.

THE COURT:

All right. Mr. McCoy, I understand your position. I have heard your position the whole time, sir. I understand your position. You were – you testified yesterday on your position.

MR. McCOY:

Yes, but Mr. English didn't subpoena any of my witnesses, Your Honor. That's a violation of the Sixth Amendment Right of my compulsory process, Your Honor, and you know it.

THE COURT:

Mr. McCoy.

MR. McCOY:

And then the things Mr. English said in this courtroom, Your Honor, those is grounds for excess of a mistrial. That -- The stuff Mr. English said shouldn't have never been said in this courtroom.

THE COURT:

Mr. McCoy, you'll have the right to appeal all of that, sir.

MR. McCOY:

Yeah, I've got a right to appeal and now they -they done maliciously convicted --

THE COURT:

Mr. McCoy --

MR. McCOY:

-- me of three counts of first degree murder, Judge Cox.

THE COURT:

All right.

MR. McCOY:

That's not justice. Where is my due process, Your Honor?

THE COURT:

Mr. McCoy --

MR. McCOY:

Where is my equal protection under the Fourteenth Amendment of the United States Constitution, Your Honor? It has been violated, Your Honor.

THE COURT:

All right.

MR. McCOY:

You know it has, Your Honor.

THE COURT:

Mr. McCoy, that has been noted for the record, sir. I understand that. But I am asking you during this part of the proceedings to restrain yourself, remain in your chair –

MR. McCOY:

I want to be excused, Your Honor.

THE COURT:

You cannot be excused according to the law. But if you leave that chair, sir, I will have you restrained in that chair. Do you understand that? Do you understand that, Mr. McCoy?

MR. McCOY:

I do, Your Honor.

THE COURT:

All right. So, remain in the chair and I am telling this courtroom that there will be no outbursts in this courtroom.

MR. McCOY:

Also, Your Honor, I know they probably talked to you. I want to skip these preliminaries, Your Honor. They've maliciously convicted me of three counts –

THE COURT:

No, sir, I have –

MR. McCOY:

– first degree murder.

THE COURT:

Mr. McCoy –

MR. McCOY:

I want to go on and get the death sentence, Your Honor, and go down to – go down to Angola and give this stuff back, Your Honor.

THE COURT:

Mr. –

MR. McCOY:

I – What are we going through these excess preliminaries –

THE COURT:

Mr. McCoy, I have –

MR. McCOY:

– for, Your Honor?

THE COURT:

Mr. McCoy, no one has talked to this Court. The jury has been sequestered this whole time and has not made any discussion of this.

MR. McCOY:

But how can I have a purpose with the defense, Your Honor –

THE COURT:

That is it, Mr. McCoy.

MR. McCOY:

– and I have had nothing to work with -

THE COURT:

Mr. McCoy –

MR. McCOY:

– here, Your Honor.

THE COURT:

Mr. McCoy, that is it for the day.

MR. McCOY:

That's it for the day, Your Honor.

THE COURT:

All right. Thank you, sir. All right, Mr. Marvin, ready to proceed, sir?

MR. MARVIN:

Yes, sir.

THE COURT:

Mr. English, ready to proceed, sir?

MR. ENGLISH:

Ready to proceed, Your Honor.

THE COURT:

All right.

MR. MARVIN:

Are you going to sequester the witnesses before or after –

THE COURT:

Yes, sir. No, I'll do it when I have the jury in the courtroom.

MR. MARVIN:

That's fine.

* * *

**YOLANDA COLSTON**

**Called as a witness
by counsel for the State,
who, after having been duly sworn,
was examined and testified as follows:**

DIRECT EXAMINATION

BY MR. MARVIN:

Q Ms. Colston, will you please state your name and if you could spell your last name, please.

A Yolanda Colston, C-o-l-s-t-o-n.

Q Yolanda, you were married to Robert McCoy?

A Yes.

Q When were y'all married? What year?

A Uh, I'm thinking in probably '05 or '06. I'm not sure. I'm not really sure.

Q '05 or '06 or what?

A I said probably in '05 or '06. I'm not really sure.

Q Where were you married? In Caddo Parish or –

A Caddo Parish, yes.

Q All right. Ms. Colston, Gregory is your son or was your son?

A Yes. Yes, he's still my son.

Q And who is Gregory's father?

A His name is Lee Gregory Johnson.

Q Okay. Now, when did you meet Robert McCoy?

A I met Robert – it was at a gym, like a work-out, over there off of Bert Kouns.

Q When?

A Oh, gosh, it's been so long. I don't know.

Q Okay. Let me ask you this. How old was Gregory when you and Robert began seeing each other –

A He was –

Q – as a couple?

A He was just fixing to turn fifteen almost, I think. He was fixing to turn at least fifteen.

Q At least fifteen?

A I think so.

Q Okay. Let me push that a little bit closer to you. Ms. Colston, did Robert and your son, Gregory, get along?

A No. Robert always had a vendetta against my son because I'm going to always choose my son over him. As a mother we've got to protect our children.

Q Okay. Did he – But did he and Gregory get along on a daily basis? I mean –

A They got along, you know. Greg kind of looked up to him because Greg had never really just had a father figure.

Q Okay. So y'all were able to sit down and eat supper and meals together, things like that?

A When he was there. When Robert was there.

Q Okay.

A Robert wasn't – I mean he'll come home maybe a week and then he will leave for like two or three weeks without even calling or saying anything.

Q Okay. Now, Yolanda, in the spring of '08 things had gotten bad between you and Robert?

A Uh-huh. Yes.

Q Okay. And there was an incident which I believe you ended up talking to Detective Humphrey?

A Yes.

Q Do you know who I'm talking about?

A Yes.

Q An incident occurred between you and Robert?

A Uh-huh. Yes.

Q Where did that happen at? What location?

A It was in Bossier. It was at my house. Robert had already – had broken into my house.

Q You and Robert had separated?

A Yes, we had separated.

Q And had you moved from the residence where you and he lived together or did he move to another location?

A No, I moved.

Q Okay. Did Gregory go with you then?

A Of course, yes. Yes.

Q Okay. And so, what happened – you said he had broken in your house. Tell us what happened.

A He had – he had broken into my house and I had our daughter with us. And as I walked in the house Robert was in – it's a den where's there's sliding doors. He was in there hiding. And when he came out I'm thinking like he was going to come and say, look, I'm sorry. I apologize for what – what's been going on between us. But he had a knife in his hand. And as he had that knife, that's when he came towards me and took me to the back room and pressed the knife against my throat and said that I'm going to kill you and I'm going to kill myself. During that time my – my daughter was right beside me tugging, you know, on my – you know, my leg while he had me laid down on the bed.

Q Okay. Let me back you up just a minute. Your daughter?

A Yes.

Q What's her name?

A Anna.

Q Okay. She is your and Robert's daughter?

A Yes.

Q And what's her birthday?

A Her birthday is October the 7th, '06.

Q Okay. So she's two years old approximately when this is happening?

A She's – she was turning two. She was turning –

Q Or, yeah, a year and a half old?

A Yeah.

Q A year and a half to two?

A Yes.

Q Okay. And you said she was tugging at your –

A She was tugging at my leg, you know. She didn't – you know, she's small. She didn't know what was going on. At that time Robert had me placed down – I can't remember how, but I know that I could not get up. I couldn't get up at all. And he still had the knife to my throat.

Q Okay. And so, what happened?

A I asked him what are you doing, you know, like that. And so, he like, you're not fixing to embarrass me. I'm like, embarrass you. He's like – he just kept saying you're not fixing to embarrass me, you know. And so, I'm like, Robert, this is not you. This is not of God. This is not you. Please do not do this. I pleaded with him not to do this.

Q How long did all this take?

MR. ENGLISH:

Excuse me, Your Honor. I'm going to make an objection. Can we ask the jury to –

THE COURT:

All right. All rise, please.

MR. SHERIFF:

All rise for the jury.

(JURY ESCORTED OUT OF COURTROOM)

THE COURT:

All right, Mr. English.

MR. ENGLISH:

Your Honor, I make an objection to all of this testimony. I ask that it be stricken. Mr. – Mr. – The State could have put this evidence on at the guilt phase They're attempting now – This is – We are now, Your Honor, in the penalty phase of this case. This is evidence that should have been put on at the guilt phase that was not put on, Your Honor. We do not have an opportunity to respond to it at this particular time. We are now in the penalty phase for which there are very strict rules, Your Honor, as to what an individual can testify to. I think that this goes beyond the penalty phase of what we're now going back and attempting to do what should have been done at the guilt phase by putting this evidence on, Your Honor. It's not relevant to this particular case or where we're at right now.

THE COURT:

All right, Mr. Marvin.

MR. MARVIN:

Your Honor, first of all, it was put on in the guilt phase. The affidavit – well the aggravated battery warrant was in evidence as Exhibit – It should be around the first twenty I would say.

MR. ENGLISH:

Your Honor, I stipulate that a warrant was put into the record and Officer Humphrey – Humphrey had referenced it, but this is going into specific details of prior –

MR. MARVIN:

5-71 – S-71. 8-71.

MADAM CLERK:

Seventy-one.

MR. MARVIN:

S-71. Your Honor, Exhibit – State's Exhibit 71 is a warrant for the aggravated battery under the Domestic Violence Act and it was offered into evidence in connection with Detective Humphrey's testimony from the State.

MR. ENGLISH:

And – and, Your Honor, this is prior criminal acts that they are talking about here today. You can – you can – you can inform the jury – Because we took this to the Second Circuit – you can inform the jury that this crime was committed, but you cannot go into details of prior criminal acts in a – in a trial. It is – it is not – it is not permissible under the laws of Louisiana. The State is attempting to bring in prior criminal acts. We took this to the Second Circuit. The District Attorney certainly has the right to say Robert McCoy – that it's relevant to the fact that Robert McCoy – a warrant was issued against Robert McCoy for aggravated battery. But to allow this witness to go into specific details of that event is a violation of Mr. McCoy's rights. You cannot go into the details of a prior criminal act, Your Honor. The State has already put it on the record. It's in there. And, quite frankly, Your Honor, I should have objected earlier. That testimony should be stricken and they should be prevented from going any further into this testimony.

THE COURT:

All right, Mr. Marvin, your response, please.

MR. MARVIN:

Your Honor, we filed a Notice of Intent of Other Crimes Evidence a long time ago. And we've argued that. We had a hearing here. I don't believe this is a

matter that did go to the Court – Second Circuit of Appeal, but it was ruled admissible for the purposes of allowing the tryer of facts to know why Mr. McCoy was at that residence and what motivation he had for being there and why the police were looking for him and why he was named as a suspect immediately after discovery of the bodies. But at this stage of the proceedings, Your Honor, this victim is allowed to – to discuss what has transpired between her and this defendant and how this has affected her. This is one of two, and the only two events, that I'm going to go into. The other is actually the murder obviously. But she is allowed under the law to tell the jury what happened between her and the defendant and how it's affected her life. That's what this – that's what the whole guilt – I mean penalty phase is about. So, we submit that it's directly relevant. I don't intend on just harping on this agg battery incident much longer, but it's before the jury. The jury already knows about it.

MR. ENGLISH:

Your Honor, it's before the jury. Clearly, we went to the Second Circuit and the Second Circuit says he has the right – it was relevant to bring it to the jury as to – as to what Mr. McCoy's motivation was in going into that house. That has already been established. But this is a prior criminal act. What Mr. Marvin is attempting to do, Your Honor – and the law is clear he can – he can raise that issue, he can inform the – he can inform the Court that Mr. McCoy – a warrant was issued against Mr. McCoy for aggravated battery against Ms. Colston. But to allow Ms. Colston to testify in graphic detail what the event is, is a violation – it is a violation of the Rules of Evidence and – and it impugns Mr. McCoy's right to a fair trial. This is a prior criminal act. You cannot go into those specific details. You can

alert the jury that it took place. You can alert the jury that he already has that in the record. He clearly has it in the record now which, Your Honor, which actually that testimony should be struck, but he cannot go into the specific details of – of – of, by the way, what is an allegation, Your Honor, that was never put in front of a courtroom, never put in front of a tryer of fact to determine as to whether or not those allegations were true or not. That is what the danger is and that's why he cannot go into that testimony.

THE COURT:

All right. I will take five minutes – ten minutes to take this under advisement and I need to go upstairs and look at another issue at this time, so we will be in recess for ten minutes.

MR. SHERIFF:

Court's in recess for ten minutes.

(COURT RECESSES)

(COURT RECONVENES)

THE COURT:

All right. I need everyone to come to order, please.

MR. SHERIFF:

You may be seated. Court is in session.

THE COURT:

All right. During the recess I had several issues that arose. Mr. Marvin, you're present and ready to proceed, sir?

MR. MARVIN:

Yes, sir.

THE COURT:

Mr. English, you're present and ready to proceed?

MR. ENGLISH:

Yes, Your Honor.

THE COURT:

And, Mr. McCoy is present with you?

MR. ENGLISH:

Yes, Your Honor.

THE COURT:

All right. Ladies and gentlemen, I am going to address the courtroom at this time. I understand that this is a highly emotional case and issue. I am going to direct that persons do not talk to each other in this courtroom or outside of this courtroom or try to question each other about the case in this courtroom. I am not addressing any one person, but the other side of it is if I hear of any other disruption out from the audience I'll either remove that person from this audience or I will take other appropriate actions to make sure that the integrity of this trial is preserved. So, I have made my warning on the record and I do not want to have to address this issue in the future. As far as the objection made by Mr. English, State of Louisiana versus Adam Comeaux, C-o-m-e-a-u-x, it is cited under 699 So.2d 16. It overrules State of Louisiana versus Bourque, B-o-u-r-q-u-e, which is found at 622 So.2d 198. This is a July 1st, 1997, opinion by the Louisiana Supreme Court. It states that, "Evidence that established the defendant in the recent past has engaged in criminal conduct involving violence to the person is highly probative of the defendant's character and propensities. Such evidence generally would not inject an

arbitrary factor into a capital sentencing hearing, especially when the conduct involves the same or similar crime committed in a similar manner." The case goes on to state that, "There is a point that it may reach sheer magnitude and details of the evidence can be excluded because of its cumulative or repetitive nature and that would be in the discretion of the judge." But at this time it has not reached the magnitude of that and, therefore, I will overrule the objection –

MR. MARVIN:

Thank you, Your Honor.

THE COURT:

– based on that case. And I will enter this case into the record.

(COPY OF CASE FILED INTO THE RECORD)

MR. ENGLISH:

Your Honor, may I – may I just make – just for the record, so I can preserve this record for appellate purposes, I am going to again ask the Court not to allow that testimony because those are mere allegations that have been made against Mr. McCoy. They've never been tried and put in front of a tryer of fact. Under the under the – under the – They have never been put under a tryer of fact. These are mere allegations against Mr. McCoy. What the Court is now putting me in a position of doing is now trying this evidence because Ms. Yolanda Colston is such a key figure in this case. She's the -- she's the mother of a victim. She's the daughter of a victim. She's the step-daughter of a victim. This Court now puts me in a position, Your Honor, of having to now get up here and cross-examine a witness on the – on the facts of this case or to – or to bring other witnesses into this case to refute those allegations. I think

the law is clear the State does have a right to bring in prior conduct. I think that the State can bring in that prior conduct, which it has already done without going into specific allegations – And these are allegations, by the way, Judge. That's what they are. They're allegations. This is not – this is not where this case was tried in front of a judge and a jury and you are now reciting facts that were tested in a forum. You are now allowing an individual to come into this court in a capital – penalty phase of a capital murder proceeding and make allegations, untested allegations. In fact, Your Honor, I believe that what is – that – that – that – that given who Ms. Colston is in this case and given her central role in it, Your Honor, I now move for a mistrial in this case, Judge.

(DEFENSE MAKES MOTION FOR MISTRIAL)

THE COURT:

Mr. English, I will recite again the Louisiana Supreme Court case of State versus Comeaux. "Evidence that establishes the defendant in the recent past has engaged in criminal conduct involving violence to the person is highly probative of the defendant's character and propensities. Such evidence generally would not inject an arbitrary factor into a capital sentencing hearing, especially when the conduct involves the same or similar crime committed in a similar manner." I will make my ruling, Mr. English. I deny the mistrial. And I will state that this case is involved. It was found under other crimes evidence under 404B. It directly states under 404B this case. It overrules the State versus Bourque and I am relying on this case. If it become cumulative – Mr. Marvin is – has the ability to state what has happened to the victim as far as violence. But if he becomes cumulative or in magnitude, then the

Court has the right to shut it down. And the Court will note your objection to this for the record.

(MOTION FOR MISTRIAL - DENIED)

(OBJECTION TO COURT'S RULING NOTED FOR THE RECORD)

MR. ENGLISH:

I just want to respectfully state that Ms. Colston is not the victim in this case.

THE COURT:

Mr. English, I think that she stated that she was a victim –

MR. ENGLISH:

No, no, no, no. No, Your Honor, Ms. Colston is –

THE COURT:

The violence –

MR. ENGLISH:

The point is, Your Honor, Ms. Colston is not the victim that Mr. McCoy is on trial for, for having committed a crime against.

THE COURT:

Mr. English –

MR. ENGLISH:

She is not the victim, Your Honor.

THE COURT:

Mr. English, the evidence of violence to a person is probative. There was other crimes evidence which has already been allowed by the Court which you have stated has been taken to the Second Circuit, which the

Second Circuit did not overrule this Court's determination, and that crime has been placed before the jury at this point in time. Mr. Marvin, if you can move on from that point, I would instruct you to move on from that point and let's move forward, please. But I will note that the objection is overruled based on State versus Comeaux.

MR. MARVIN:

Okay.

THE COURT:

And I will enter State versus Comeaux into the record. All right, all rise for the jury, please.

MR. SHERIFF:

All rise for the jury.

(JURY ESCORTED INTO COURTROOM)

MR. SHERIFF:

All jurors are present, Your Honor.

THE COURT:

All right. You may be seated. Mr. Marvin.

MR. MARVIN:

All right.

**DIRECT EXAMINATION OF YOLANDA COLSTON (CONTINUED)**

Q Ms. Colston, when we broke a moment ago you had described for the jury an incident between you and Robert?

A Yes.

Q Had – had y'all filed divorce papers at that time?

A No.

Q Okay. And that incident led to a warrant from Detective Humphrey being issued for Robert, correct?

A Yes.

Q And are you familiar with the warrant? Have you ever seen it?

A No, I –

Q Okay. Did you know they were looking for him to arrest him?

A Oh, yes. Yes.

Q Okay. I'm going to show you what's been marked as State's Exhibit 71. It was offered into the trial in this matter. Does that generally look like the incident that you described? I'll represent to you that that's a – that's a warrant?

A Yes. Yes.

Q Okay. Now, Ms. Colston, after Greg and your mother and your step-father – How long had your mother and step-father been married?

A I think at least over two years, maybe a little bit more.

Q Okay. Did you get along with your step-father, Mr. Young?

A Oh, yes. Yes.

Q Okay. After their deaths who went to the funeral home and picked out the caskets?

A I'm thinking my sister, my brother and my cousin did because –

Q Okay.

A – I was under police protection, so I didn't – I couldn't do anything.

Q Okay. Their funeral was before Mr. McCoy was apprehended?

A I don't know.

Q You're not sure. Okay. And I understand Greg's birthday was yesterday?

A Yes, sir.

Q Was it a hard day for you?

A It was because he turned twenty-one yesterday. And that's considering him as a grown man and I ain't – I haven't – I missed out on that because when I went to the grave site the only thing that I seen was just dirt and grass and don't nobody – no parent want to see that. No parent.

Q Okay.

A And that's all I have.

Q How old was your mother?

A Huh?

Q How old was your mother?

A She – Her birthday is this month too, August the 11th. And she will be 59.

Q Okay. Ms. Colston, how else has this matter affected you?

A It changed my life because things that me and my mom and Willie and them do as a family I can't get

that back. My son, I didn't get a chance to see him graduate and that's a proud thing for a mother, you know.

Q Uh-huh .

A And it was always – before I got married to Robert it was just me and my son and so we did everything together. He was a sweet boy. He was very smart. He – he done what he was told to do. I had no problem out of him. He made great grades. I had no problem out of him. He was a good boy. And I loved my son. And I just feel – And I know deep in my heart he knew that. He knew it and he took my baby away from me.

Q Okay. Did Greg have plans to go to college?

A Yes.

Q Were you going to help him?

A Yes.

Q How?

A Everything I could. I could take on two jobs. I mean he was – He – he's my first and I wanted to see him go to college. And I know he wanted to make his mama proud.

Q Okay. Anything else you want to tell us, Ms. Colston?

A My mother, she was a strong woman. She'll give you her last, her last. I'm the baby of the family and I was always with my mother. We worked together. We did everything together. My dad - My stepdad, Willie Young, he was more like my dad than my real dad. He loved me. He always told me loved me. He would always be there for me. He took care of me.

Q And, Ms. Colston, you heard that 911 tape?

A Yes.

Q Do you recognize your mother's voice?

A Yes.

THE COURT:

That's all the questions I have. He may have some questions for you.

MR. ENGLISH:

No questions, Your Honor.

THE COURT:

You can step down.

THE COURT:

All right, Ms. Colston – Ms. Colston?

MS. COLSTON:

Yes.

THE COURT:

Ma'am, you're still under the rule at this time. Just do not discuss this case with anyone, please,

* * *

**DR. MARK VIGEN**

**Called as a witness**
**by counsel for the Defense,**
**who, after being duly sworn,**
**did testify as follows:**

DIRECT EXAMINATION

BY MR, ENGLISH:

Q Good morning, Dr. Vigen.

A Good morning, sir.

Q Dr. Vigen, I just want to – although you've been stipulated, I just want to talk a little bit about your credentials and your resume, okay.

A Yes, sir.

Q And you have a Ph.D. in what?

A In Clinical Psychology.

Q And how long have you been a clinical psychologist?

A Since 1976.

Q And you are also a teacher, correct?

A I was a teacher, yes.

Q You were a teacher. And you had a student in your class some years ago?

A Many years ago I had a student, yes.

Q And who was that student?

A Larry English.

Q Okay. Did I turn out better than what you hoped for?

A You turned out way better that what I'd hoped for.

Q All right. And you – you have worked and you have a particular area of expertise in capital cases, correct?

A Yes.

Q How many capital cases have you handled in your career?

A I've evaluated about 150 men who have been charged with first degree murder and testified in 39 capital murder cases.

Q And you – you are often asked to come and interview and become involved with individuals who you may not have dealt with at the guilt phase or the penalty phase in that trial, but you deal with them on the appellate phase, correct?

A Yes.

Q Do you have an idea of how many of those cases you've been involved in?

A These would be like post-conviction cases?

Q Yes.

A Probably ten to twelve.

Q Okay. And you've published a number of articles as I looked in your resume in this area, correct?

A Yes.

Q And I want to just talk with you about a few of them. One is "Without Appointed Counsel in a Capital Post-Conviction Proceeding".

A Yes.

Q You published that in 1999, correct?

A Yes.

Q And one you published in 2002, "Death Row Inmate Character Adjustment and Confinement: A Critical Review of the Literature", correct?

A Yes. And "Behavioral Science and the Law".

Q And "Behavioral Science and the Law"?

A Yes, sir.

Q And in the Journal of Criminal Justice you published in 2010, "Inmate Homicides, Killers, Victims, Motives and Circumstances", correct?

A Yes.

Q And in the Criminal Justice Behavior you published "Correlates and Actuarial Models of Assaultive Prison Misconduct Among Violence-Predicted Capital Offenders"?

A Yes.

Q That was in 2010. And in 2010, you published "Life and Death in the Lone Star State: Three Decades of Violent Predictions by Capital Juries in the Behavioral Science and the Law", correct?

A Correct.

Q And, finally, in 2011, recently, you published "Serious Assaults on Prison Staff: A Descriptive Analysis on Journal of Criminal Justice", correct?

A Yes.

Q Can you tell me briefly your interests and what motivated you to publish these articles?

A I've always done prison work starting when I was a graduate student at the University of Michigan. And there was an attorney in New Orleans who was representing some Mississippi death row inmates asking that they be given attorneys to represent them while they were on death row and he asked myself and I asked one of my colleagues and we went and researched their characteristics and their competency to represent themselves in the appellate process in Mis-

sissippi. And so that led to us being able to evaluate about forty-five or fifty death row inmates in Parchman, Mississippi, where the death row – the death row is housed. And that research led to the State of Mississippi deciding that inmates on death row deserved to have representation by lawyers. And then I was asked to do some cases in Dallas, Texas. And in Texas the issue of future dangerousness in a prison is an important part of the law. And so we began to study more carefully whether we could predict which inmates would be a danger in the prison if they were sentenced to a life – sentenced to life or sentenced to death. So, we were interested in what tools could we bring to understand who would be violent in prison and who was more at risk or who was lower risk. And so that's how I got involved in – in that research.

Q And do you know Mr. Robert McCoy?

A Yes.

Q And were you assigned to Mr. Robert McCoy to make a determination as to whether or not he was mentally competent to stand trial in this case?

A Yes.

Q And did you evaluate him?

A Yes.

Q And what was your clinical diagnosis? If I used the right term there.

A I don't think we made a diagnosis or I made a diagnosis at that time. But my findings were that he was – I reported to the Court. I didn't make the findings. The Court makes the findings.

Q Sure. Obviously.

A But we reported, I and another doctor, reported to the Court that it was our opinion that he was not so mentally impaired that he would not be able to stand trial. And we found no evidence to suggest that he had a mental illness that would interrupt his ability to know right from wrong regarding the – the murders that he's been convicted of. So the Court then, independently of us, decided that he was competent to proceed to trial and the Court decided that – that he was not, I guess, insane or whatever. And so that brought us to this hearing or to this trial.

Q And when you're asked to determine whether or not an individual is mentally competent to understand – be able to assist his lawyers in the defense and to be able to understand right and long – right and wrong and to understand what proceedings are going around – going on around him, is that correct?

A Yes.

Q And outside of that – And I know you're looking for very narrow issues at that time. At that time did you make any other findings – did you make any additional findings about Mr. McCoy's mental or emotional state?

A No, we –

Q Okay.

A We just spoke to the issue of competency and sanity.

Q But you were subsequently asked to – in preparation for this trial to meet with Mr. McCoy and evaluate him, is that correct?

A Yes.

Q And can you tell me approximately how many interviews did you do with Mr. McCoy? How many hours of interviews did you do?

A I and my staff, including a psychiatrist that works on my staff and a social worker that works on my team – We kind of have a team approach to these evaluations – together we spent seventeen hours interviewing Mr. McCoy.

Q And how many collateral hours of interview that you did? And explain to the jury what collateral hours are.

A Collateral interviews are interviews with people that he asked us to interview and – family members and people that -former employers, people that knew him. And we spent thirteen hours interviewing other people: A Shreveport City Marshal, Shreveport City police officer, Bossier Parish Sheriff's office officer and department administrators, pastors, his parents, Caddo Parish deputies.

Q Did you have to review documents in this case?

A Yes.

Q And can you estimate how many documents you reviewed?

A Oh, gosh, three –

Q Let me ask you a different question. You – you reviewed the whole case file in this case?

A Yes. We reviewed everything we could find to review, yes.

Q You reviewed all the police reports, any evidence, any documents that – that the lawyers suggest-

ed to you, any documents that Mr. McCoy suggested to you? You looked at everything, correct?

A I think we had about three or four of these two and a half to three-inch binders full of documents.

Q And is – isn't it safe – is it safe to say that what you -what you try to do so – in order to make a – an accurate evaluation of the individual is that you try to look at that individual's whole life?

A Yes.

Q And did you try to attempt that in Mr. McCoy's case? In this case?

A Yes.

Q Was there another doctor that worked with you?

A Yes.

Q Who was that?

A Dr. Patrick Sewell.

Q And what was his role?

A He was – accompanied me on two interviews with Mr. McCoy. Mr. McCoy is difficult to interview and assess, and so I asked Dr. Sewell to join me and he participated in two interviews with me.

Q Okay. And after conducting all of your interviews, document reviews, you made a finding or opinion as to – about Mr. McCoy, correct?

A Yes.

Q And could you tell the jury with specificity what your findings were?

A Yes. I made three findings, which I call three opinions. And the first is that Robert McCoy has a narcissistic personality disorder with anti-social features and paranoid features. And the second is that Robert McCoy has what we in – in psychology call an attachment disorder in which he sees himself as a loving man, partner, husband to women, sort of saving them from the evils of the world and all by using his encompassing love and then seeing them as evil when they do not comply fully with his expectations of them. And the third is that Robert McCoy transforms, rewrites, refabricates his view of himself and his view of reality in order to maintain his self image of himself.

Q Let's take the first one and – and can you educate those of us not in your field, including the lawyer standing here. Robert McCoy has a narcissistic personality disorder with anti-social features and paranoid features. Can you explain that for me, please?

A I'll try to explain it. It's – And if I get too wordy, please interrupt me, or if I say something that doesn't make sense. Narcissism is a – Well, it starts with – It comes out of Narcissist was a Greek – Greek mythology person, a created person in Greek mythology. And Narcissist was this beautiful young boy, young man, and he was very, very handsome. And one day he was -This is in the mythology. He's out in the – in his boat and he looks over into the water and he sees his reflection and he is so enamored with his reflection that he looks closer and closer and closer. He just loves his reflection. And he looks so closely that he falls into the water and drowns. And so a narcissist, somebody who has a narcissistic personality, they are – they're very – they have an inflated grandiose view of themselves such that they see themselves as very important, very powerful. And what they do is they mistakenly believe

that only their reality exists; that they and what they perceive is true; that they have the truth. And they are unwilling or unable or certainly deficient in their ability to see that other people have different points of view, different ideas, different feelings; that other people see things differently than they do and they're unable to consider that other people could have such views because only their view is accurate. Their view is the truth and anybody who has a different point of view is just – does not possess the truth. So, for example, if – if you saw Mr. English and me arguing and Mr. English clearly had a point of view, his point of view is Point A. My – mine is Point B. And we just disagreed on that. And you knew clearly that Mr. English knew my point of view. He understood B, but he just disagreed with me and maintained his view and that's A. And then when Mr. English goes away, I say to you, well, I – I just can't understand what's wrong with Mr. English. He's just not smart or I didn't explain myself well enough, because if I had explained my point of view clearly enough, or if he was smart enough, he would clearly see that I'm right because I have the total truth and he's wrong. And so narcissism is a – is a personality disorder. And as you can imagine it interrupts, interferes with interpersonal relationships. It's very, very hard to have a quality relationship with someone who has a narcissistic personality disorder because there is no room for you or me in the relationship with them because we cannot have different ideas, different feelings, different perceptions, different points of view.

Q And in your review of Mr. McCoy's life, were you able to determine whether or not Mr. McCoy had a pattern with women?

A Yes.

Q Could you explain?

A Well, that goes to my second opinion. I think he has an attachment disorder with – And what I mean by that is that he's unable – more than likely than not because of the personality disorder he cannot empathize or consider the other person's point of view so he doesn't attach. He's had no close attachments in his life that I can tell. And I think the majority of his problems in life began with very, very poor relationships with women. And he has developed this idea of himself that he is a very good man, a very loving man and somehow women who have been corrupted by society he is on a mission to kind of save them and – but when he over meshes or over controls they rebel because they're individual people who are competent themselves and then he begins to have conflict with them and even becomes suspicious of their motives, their behaviors, accuse them and – and be angry at them.

Q Isn't it common that men who suffer from the diagnosis that you just said of Mr. McCoy they become – it is – they become suspicious that the woman in their life are having – is having affairs?

A Yes, frequently.

Q And the really, really extreme aspect of it is, for lack of –from a layman standpoint is if I can't have you nobody else can?

A Well, I don't think you have to be narcissistic to arrive at that level of pathology. But I mean that's certainly possible with narcissism.

Q Okay. I want to go back to your – your first diagnosis and the narcissism. You indicated that it's antisocial features and paranoid features. Let's talk about the paranoid features.

A Yes, sir.

Q Were you able to evaluate – Did you see Mr. McCoy testify yesterday?

A Yes.

Q I'm not a psychologist. I'm a lawyer. I saw a paranoid, delusional individual who thought that everybody was in conspiracy to kill him. And he certainly convinced me that he believes it. What did you see?

A He certainly is convinced and he is convincing in his power and his energy that he puts into portraying his view of the way things are. I think he has paranoid features. And this may be too technical and it may bore you. But I mean in psychology and in medicine what we try to do is we have differential diagnoses, so we have to consider what are the possibilities here when you see what you all saw. Well, I consider the possibility does he have paranoid schizophrenia. And I ruled that out because he does not have delusions – or hallucinations. His thinking can be delusional at times, but he doesn't hallucinate and his thinking is not disorganized. So that's not considered. There's something called the paranoid personality – or the paranoid delusional disorder. And this is if you imagine a pie chart when 7/8ths of the pie the person's life is intact and they're doing well and only l/8th of the pie there's some little aspect of their lives -the paranoid delusional is where – where something just doesn't fit. Let me give you an example. I had a patient at the hospital and he – he said he's getting married. And I said, well, how do you know you're getting married and he said, well – or I said who are you going to marry and he said, well, that woman across the -the – the dayroom. And I said, well, have you asked her? No. Does she know you're going to marry her? No. Well, how do you know that

you're going to marry her? Well, you see, she's wearing a green dress and green means go, and, therefore, the marriage is on. And so it's just the – it's usually the paranoid disorder is a sliver of paranoia, but the rest of the life is fine. Then there's the paranoid personality disorder that's another disorder. And paranoid personality disorders are always looking for clues to why something – Reality is out here and they think it's a clue and they're looking for what does it – what is the meaning behind the clue. And he doesn't really fit that either. So, I've – you know, I was considering these – these different possibilities, the paranoid schizophrenia, the paranoid delusional disorder and the paranoid personality disorder and he really doesn't – he doesn't really meet for any of those. And, yes, he does have this conspiracy theory that everyone, you and I, and the judge, and the lawyer – especially Mr. Marvin and Mr. Humphrey, that all these people are conspiring against him and to what degree he – I believe he clearly believes that and – But it's so pervasive that it defies the paranoid delusional disorder. It's not schizophrenia. It's way more than paranoid personality disorder. And I think it's part of his fabricating the world the way he wants to see it and I think it's narcissism.

Q Let's talk about that and then I want to – Let's talk about the third one where you indicate he transforms, rewrites, refabricates his view of himself in reality in maintenance of his self image. Can you explain that one?

A Yes. Can I give practical examples?

Q Yes, you could – yes – whatever you have to do.

A Mr. McCoy, I think, clearly understands my role in mitigation and not my role to prove or disprove this case. My job is – was not to go out and prove or

bring evidence that he was guilty or bring evidence that he was not guilty. That's not what a psychologist does. And yet he wanted us because you were doing such an inadequate job to – you and his previous lawyers – that he wanted me and our staff, or my team, to go out and interview other people and he would tell me what these people would say. So, I decided I would go and interview a number of people to – to see what they would say. And let me give you just an example. Virgil Robertson is a Caddo Parish Sheriff's deputy. A man I've known a long time. I see him at the courthouse regularly. He's an excellent deputy. And Robert told me that he and Mr. Virgil Robertson were cousins and that Virgil knew when Robert left town and where Robert was and that Virgil told Robert that Yolanda was having an affair and that Virgil told him to leave town. And all of this occurred after Mr. McCoy said that his home was broken into at 5705 East Texas, Unit 16, by the Bossier Sheriff's and Police Department; one of the two. I'm not sure. So, I interviewed Mr. Robertson, Virgil Robertson, and he said that indeed he does know Mr. McCoy. He said indeed they do – they are cousins on their father's side and that Mr. – or Deputy Robinson knew Spartacus, his brother, and so – But he said that he – and he said that Mr. McCoy did call him and told him that he was out of town, but he did not say that in any way he knew where Mr. McCoy was. He did not know anything about Yolanda. He didn't know anything about Yolanda having affairs. And he certainly did not tell Mr. McCoy to leave town. So, I think – And Mr. McCoy had come into contact with Deputy Robertson at the Caddo Parish Courthouse for various things and so I think what he does is he takes, you know, an incident or an individual and he brings that individual into his reality and then puts a meaning onto them such that they are potential witnesses to support

his view. The only problem is they don't support his view.

Q Does Mr. McCoy – When – when Mr. McCoy was telling you about this cousin and what his cousin was going to say, do you believe that Mr. McCoy believes that?

A The best way, Mr. English, I can say it is he's emphatic, he's persuasive. And I don't have a way to measure – I mean I -I want to believe it, but I don't have a way to actually measure to what extent he believes. I think he believes it to answer your question. But to be honest with the jury, I don't have a scientific way to say I'm absolutely sure he believes it. I think he believes it.

Q Did Mr. McCoy ever talk to you about Rice University?

A Yes.

Q What did – what did he tell you?

A He said that he graduated from Rice University.

Q And what did you – were you able to – What did he tell you he graduated from Rice University in? Did he give you – Did he tell you?

A I don't remember if he told me.

Q Did he tell you whether or not he played football there or not?

A He – he played football – professional football somewhere else.

Q Okay. All right. Did you investigate to determine whether or not he graduated from Rice?

A Yes.

Q And?

A He did not graduate from Rice University?

Q Did he attend Rice University?

A No.

Q Okay. So, Doctor, that – saying I graduated from Rice University, saying I attended Rice University had absolutely nothing to do with whether or not he was guilty or innocent in this case. It has absolutely nothing to do with this case, no relevance whatsoever. Why would he tell you that?

A I think it's part of his – I think it's part of his narcissism and his building up of his own view of himself. And I think there are a lot of people, maybe us in this room, there are many, many people that can lie to themselves so extensively and for such a long period of time that they ultimately end up believing what the lie is.

MR. McCOY:

Well, also, did Officer Haynes tell you that the Shreveport Police –

THE COURT:

Mr. McCoy –

MR. McCOY:

What did the Shreveport policeman tell you?

THE COURT:

Mr. McCoy. Take the jury out, please.

MR. SHERIFF:

All rise for the jury.

(JURY ESCORTED FROM THE COURTROOM)

MR. SHERIFF:

Okay, sir.

THE COURT:

You may be seated. Mr. McCoy, I've already warned you this morning. I'll warn you one more time. No outbursts will be tolerated and that includes the audience. No discussion in the audience. And, Mr. McCoy, I am warning you one more time if you make an outburst again then I will take the appropriate action. So I am warning you to be quiet, please, sir.

MR. McCOY:

Yes, sir. Yes, sir, Your Honor. Your Honor, I want to ask you something.

THE COURT:

Mr. McCoy

MR. McCOY:

He just – he just said – but what about Officer Haynes. Will you ask him to vindicate what Officer Haynes told him –

THE COURT:

Mr. McCoy, you can ask your attorney –

MR. McCOY:

– about the person six-foot-one, 160 pounds with bright skin. That's what Officer Haynes told him. So I'm not lying about that. My daddy and them know about the same description. But they don't want to – to put it on record

THE COURT:

Mr. McCoy –

MR. McCOY:

They want to make it seem like something is wrong with me. There's nothing wrong with me, Your Honor.

THE COURT:

All right, Mr. McCoy, you can write those questions down and give them to your attorney to ask, but you are not to have an outburst in this courtroom again, sir.

All right?

MR. McCOY:

Yes, sir.

THE COURT:

Thank you, sir. All right.

MR. MARVIN:

May we approach, Your Honor, just on the time issue?

THE COURT:

Yes, sir.

(BENCH CONFERENCE - OFF THE RECORD)

THE COURT:

All right, bring back in the jury, please.

THE COURT:

Ladies and gentlemen, I'm going to ask for quiet in the courtroom. I'm not going to give an instruction again. If I have to give another instruction I will remove the offending party no matter who that is.

MR. SHERIFF:

All rise for the jury.

(JURY ESCORTED INTO COURTROOM)

MR. SHERIFF:

All jurors are present, Your Honor.

THE COURT:

You may be seated. Mr. English, you may proceed.

**DIRECT EXAMINATION OF DR. VIGEN BY MR. ENGLISH (CONTINUED)**

Q So, Dr. Vigen, you were – you were indicating that Robert refabricates and he creates these realities, correct?

A Yes.

Q Along that same line, I notice that one of the – you have on your report the Urshan Graduate School of Theology. Why is that on your report?

A Because Mr. McCoy said that he graduated from the Urshan Graduate School of Theology and he –

Q What is the Urshan School of Theology?

A It's – it's a school of Theology, but they have no record of Mr. McCoy ever being there.

Q You heard when I was asking Mr. McCoy yesterday while he was on the stand right before the District Attorney's Office objected about his bio. Robert indicated that he was a football star; that he excelled academically. And you were listening to his response to those questions, correct?

A Yes.

Q Do you – do you know whether or not that information was correct?

A I believe it was not correct.

Q Okay. So, refabric – refabrication – is an unfancy word is lying?

A Yes.

Q Okay.

A It's a little bit different in my mind than lying.

Q Okay. All right. Explain.

A Refabrication is – It's sort of an analogy of – one of my team brought this analogy to me. It's sort of like you have some object in your – in your grip. Maybe you – maybe it's a piece of clay or something. You have a – you've molded something in it and you refabricate it. You, you know, take things out of it and you put things back into it, but there's still some of the essence there and you remold it into something different. That's refabrication.

Q So if I challenge you on a lie that you're telling and I point out some inconsistency, what do you do?

A What do I personally do or what does he do?

Q No, what – what – what – what does he do?

A Well, I went and interviewed these people that he asked me to interview, including this Shreveport Officer Hines, and they – he told me what they'd say and he told me what they knew. And so, I said to Robert, I said, Robert, this is what they're saying. Well, when I offered what they were saying and that was different than what he said they would say, he would – his response was, well, they're police officers. They're not telling the whole truth or they're – they're being coerced into saying just what they're saying. And they're not just giving – They're not giving you, Dr. Vigen, the

whole – the whole truth. And I said, well, how it would be if I brought these men here to the correctional center and I'll ask permission to do that and bring them here and we'll have a three-way conversation. And he said, yes, let's do that. So, I was planning on doing that, but then by the end of the interview he said, no, we're not going to do that. We'll -I'll just deal with them in court. So, it's a – And this – this all happens very quickly and very fast. He's very fast at refabricating. And so, any time – And, of course, when I brought information to him that was different than the information he thought I would be have –be bringing, then I began to fall under his suspiciousness and be seen as, you know, more part of all of you all who are trying to convict him erroneously.

Q Isn't it true that Mr. McCoy believes that myself, every lawyer that he has – has been involved in this case, the District Attorney, you, everybody that's had – came into contact with him in this case, when they disagree with him what does he do?

A He divides them as – we become enemies. He breaks off conversation. He's unwilling to discuss. He's unwilling – He's just –he just stops relating to us and becomes angry with us.

Q Now, you've indicated and it's – we made clear a number of times that Mr. McCoy – the Court has found him mentally competent to stand trial, correct?

A Yes. Yes.

Q And we've come to – I also recognize that Mr. McCoy knows the difference between right and wrong?

A Yes.

Q Okay. And I say this not asking – because of what my personal experience is. So I just want to talk

about what I saw on the stand yesterday, okay, and what this Court saw on the stand yesterday, the bizarreness, the paranoia, the delusional. And when I take your, for lack of a better term, opinion or clinical diagnosis of the personality disorders, the technical evaluation that you have made of Mr. McCoy and – I'm not a clinical psychologist, but, Doctor, he's crazy to me. I mean he's crazy. He's not functioning. He can't assist in his defense. He's not in reality. I don't even think – It appears that he yet doesn't understand the gravity of what's going on here in this case. And so I'm asking you is Robert McCoy mentally ill?

A Well, I think Robert McCoy has a mental disorder. And if I were a layman and not looking at this from my point of view as a psychologist I can understand why you think or say or portray him as crazy. But crazy is not a term that we use in our profession. I mean there – I mean that's sort of a – it's a word and people – I mean I see people and I say, well, that's crazy to do that and, boy, that person looks crazy. But –

Q Well, let me – let me respond. You're right. Crazy is an unfair word. What I see, what I've dealt with the last two years, what I saw on that stand yesterday is someone who is severely mentally and emotionally defective. I saw someone – the person that I'm dealing with, that we all have been seeing in this courtroom for the last ten days is suffering from emotional and mental illness so that he cannot function. I do not believe that Mr. McCoy is with us right now.

MR. MARVIN:

Your Honor, he needs to ask the witness questions.

MR. ENGLISH:

I'm asking a question.

THE COURT:

I'll sustain –

Q What is wrong about what I'm saying? What's the clinical of what I'm saying?

A I believe – it's my opinion that Mr. McCoy has a personality disorder. May I define that?

Q Yes.

A A personality disorder is a deeply ingrained pattern of maladaptive behavior which interferes with a person's perceptions, thinking, interpersonal relationships and causes dysfunction in occupation and education and relationships. So, it's a deeply ingrained pattern of maladaptive behavior which severely interferes with people's interpersonal relationships. I think Mr. McCoy has that. And I think it's – it can best – In my understanding it's best understood as he has a narcissistic personality disorder. And, yes, it does interfere with your ability to work with him as his defense counsel. It interferes with my ability to work with him as a psychologist doing an evaluation. It is a – it interferes with interpersonal effectiveness and functioning. And I really believe that he has that disorder.

Q Is it – Do you recognize it as a serious disorder that impedes his ability to function regularly among regular people in a society?

A These disorders that I'm describing – And in mental health things are not, you know, just entities. They're – they're more – they're not discreet diagnostic entities. They're on continuums. Sort of like diabetes. You can have diabetes and you can have certain degrees of it. You can have high blood pressure, certain degrees of it. But – And the same is the case here and I

think he has a severe malignant – I'd call it a malignant personality disorder.

Q Define malignant.

A It's so invasive in his personality that it – it really renders him very ineffective in working with other people, particularly other people who have a different point of view than he.

Q Doctor, I stated to the jury that there's no reasonable way you can evaluate this evidence and not come to the conclusion that Robert McCoy was the cause of the murder of the victims in this case. You saw the evidence, correct?

A Yes.

Q And that evidence was put up on that screen?

A Yes.

Q Do you believe that Robert McCoy believes that he did not kill those people?

A I believe that he believes that to a great degree. I cannot tell you that he believes that a hundred – with 100 percent of his personality.

Q You reviewed Mr. McCoy's medical records since he was incarcerated, correct?

A Yes.

Q And Mr. McCoy has attempted suicide, correct?

A Yes.

Q Can you tell the jury how many times your records show? I tell you what, let me just tell you what I have here. Okay. All right. And then we can talk

about them. The first one was five - - Well, let me ask you this question. What is guilt? What is guilt?

A Guilt is experienced as an emotion. And I think it is related to repressed anger. And I think it occurs when an individual crosses a moral boundary or when his behavior or his thoughts or his, you know, what he is, when he crosses a boundary, a moral boundary where he violates some type of a value, or a personal value. So, you know, if – if a person, you know, takes advantage of another person and so – and that's against his moral value he would feel guilty for that.

Q Is suicide one – Is suicide an – a manifestation of guilt?

A It – it's not always, but it can be.

Q It can be. Okay. And so, let's talk about that. You reviewed the records. When Mr. McCoy was arrested on 5-12-08 in Idaho, he was found in his jail cell. He tried to hang himself.

A Yes.

Q Is that what your – is that what your records show?

A Yes.

Q You reviewed those records?

A Yes.

Q From your – from a clinical diagnosis can you tell – what can you tell me about that?

A It looks like a suicide attempt.

Q Mr. Gayle Houston, you heard – Did you hear his – any of his testimony yesterday?

A I did not.

Q Mr. Gayle Houston testified that he and Mr. McCoy's brother picked Mr. McCoy up immediately after – You've read that, correct?

A I've read that, but I didn't hear his testimony.

Q Okay. And he indicated in his testimony yesterday, and to the police report, that Mr. McCoy was crying and that Mr. McCoy said I'll kill myself. I'm going to kill myself before I let them take me.

MR. McCOY:

Your Honor, may I have a moment, please, sir?

THE COURT:

Mr. McCoy. Excuse me, all rise for the jury, please.

MR. SHERIFF:

All rise for the jury.

(JURY ESCORTED OUT OF COURTROOM)

MR. SHERIFF:

The hall is clear.

THE COURT:

All right. You may be seated. Mr. McCoy, this is the third time I've warned you this morning. Deputies, I will allow you to remove Mr. McCoy to an area where he can hear the proceedings, sir.

MR. McCOY:

You see how he's lying, Mama. Y'all've got the medical records. You see how they're sitting in here lying.

(MR. McCOY REMOVED FROM THE COURTROOM)

THE COURT:

I place on the record that the deputies have made accommodation that Mr. McCoy will be removed from the room; that he will be able to hear the proceedings and that I will allow Mr. English to confer with Mr. McCoy after or before he completes his examination of Mr. – of Dr. Mark Vigen. So –

MR. ENGLISH:

What do we – what do we tell the jury, Your Honor?

MR. MARVIN:

I would suggest that you just tell the jury that Mr. McCoy –

THE COURT:

I need you next to a microphone, please.

MR. MARVIN:

That he's been removed from the courtroom, but he's still able to hear the proceedings and participate in these proceedings temp – And I would say it's temporarily.

THE COURT:

And it is temporary. He has the opportunity to come back into these proceedings. Mr. English, I will question him in just a few minutes and see if wishes to participate in the proceedings. I've only removed him temporarily from the proceedings.

MR. ENGLISH:

Your Honor, may I recommend that Mr. Marvin and I talk. It's 12:10. May I recommend that we break

now and maybe Mr. McCoy will have calmed down by the time we get back and you can bring him back in.

THE COURT:

All right.

MR. ENGLISH:

And so we don't have to tell the jury anything.

MR. MARVIN:

And he's not through with Dr. Vigen, I understand that.

MR. ENGLISH:

And I'm not through with Dr. Vigen.

THE COURT:

I understand. I'm not – I'm not going to tell the jury anything. I'm just going to tell them that it's a good opportunity for a break at this time and that we're running into the lunch hour. And, gentlemen, I would like to meet with y'all at 1:15. We'll start back at 1:30 promptly, but I'd like to meet with y'all about 1:15 just to go over jury instructions.

MR. ENGLISH:

That's fine, Your Honor. Do we have a copy of the final jury instructions?

THE COURT:

I will get to them to you in just a minute.

MR. ENGLISH:

Okay. That's fine, Your Honor.

THE COURT:

Mr. Marvin – Let me bring the jury back in and instruct them on that.

MR. MARVIN:

Are you going to bring them in?

THE COURT:

Yes, sir, I am.

MR. MARVIN:

I don't have an objection if you just want to send a bailiff to tell them that we broke for lunch. That's –

THE COURT:

I do want to give them instructions –

MR. MARVIN:

Okay.

THE COURT:

– that they're not to discuss the case though.

MR. MARVIN:

Okay. That's fine.

THE COURT:

All right.

MR. MARVIN:

We're going to start back at around 1:30?

THE COURT:

Yes, sir, but I need you –

MR. MARVIN:

But us meet you here at 1:15?

THE COURT:

Yes, sir, 1:15. Yes, sir, please. Mr. English, I'll have my law clerk bring you a copy down. And, Mr. Marvin, where would you like us to bring your copy of the instructions, please?

MR. MARVIN:

They can just come – bring it to my lobby and somebody – they'll bring it to me.

THE COURT:

All right, sir.

MR. ENGLISH:

I'll be either in my – I'm sorry, my little office there or the dining room – the cafeteria, Your Honor.

THE COURT:

Yes, sir.

MR. MARVIN:

Actually, if you'll just tap on that first door of my office we're in the conference room. Do you know where I'm talking about?

MR. SHERIFF:

All rise for the jury.

(JURY ESCORTED INTO COURTROOM)

MR. SHERIFF:

All jurors are present, Your Honor.

THE COURT:

Ladies and gentlemen, instead of being seated, this is a good opportunity to break for lunch, so we're going to break for lunch until 1:30. We'll be back promptly at 1:30. You' re – I hope you have a good lunch.

You're not to discuss this case. You cannot discuss this case amongst yourselves or with anyone at this time and I'm giving you that instruction. So you're not to discuss this case at this time during your lunch period. All right. So, thank you. You may take the jury to lunch, Deputy.

(JURY ESCORTED OUT OF COURTROOM)

THE COURT:

Is the hallway clear?

MR. SHERIFF:

Yes, sir.

THE COURT:

All right. The hallway is clear. We'll stand at ease until – I will be back in here at 1:15, but we'll start the trial back at 1:30.

MR. ENGLISH:

That's fine, Your Honor.

THE COURT:

All right.

MR. SHERIFF:

Trial is in recess until 1:30.

(COURT RECESSES)

(COURT RECONVENES)

THE COURT:

All right, Mr. Marvin?

MR. MARVIN:

Yes, sir.

THE COURT:

You're present, is that right? I was just making sure you were present in the courtroom?

MR. MARVIN:

Yes.

THE COURT:

Mr. English, you're present in the courtroom and Mr. McCoy is present in the courtroom?

MR. ENGLISH:

That's correct, Your Honor.

THE COURT:

All right. Mr. McCoy, sir, you have the right to write questions to your attorney. I don't need any statements or anything like that. You have the right to write questions to your attorney. You can disagree with the testimony that's taking place. You can ask him -what you did during the course of these proceedings -to ask any questions that you want him to ask and slide those to Mr. English and let him ask you those questions – ask those questions. I don't need any statements, please, Mr. McCoy. I'm just doing the best that I can with trying to keep everything even-keeled. I need you to sit in that chair and be quiet. And you can slide your questions to Mr. English. You can ask him to ask any questions of Dr. Vigen that you want him to ask and do whatever you need to do. But I cannot have those with you speaking out like that. All right, sir?

MR. McCOY:

Yes, sir, Your Honor. Your Honor, please, give me a second. Your Honor, it's hard to sit in the courtroom,

Your Honor, when you know that it isn't the truth, Your Honor. I don't mean to be curt or disrespectful, Your Honor. Lord knows I don't.

THE COURT:

Yes, sir.

MR. McCOY:

But, Your Honor, it's very hard, Your Honor –

THE COURT:

I know.

MR. McCOY:

– to sit in this courtroom. And this is supposed to be my counsel, Your Honor. He talked about me worser than the bottom of somebody's shoes, Your Honor. That's not a professional obligation. He do not supposed to do what he's doing here today, Your Honor. You know that and everybody in this courtroom knows this, Your Honor. And this is the only thing that, you know, is so vindictive about it. He's – he's not doing his job. And that's the only thing I'm saying, Your Honor. He's not doing his job.

THE COURT:

Okay. And I understand that, Mr. McCoy, and I - Mr. McCoy, I understand what you're saying. I have listened to that. I understand that. But, sir, I'm telling you disrupting them from hearing what the expert is saying – they need to be able to hear that. So, I'm asking you and we'll – you and I've talked.

MR. McCOY:

Yes, we have, Your Honor.

THE COURT:

And I – you know me. I try to call it like I see it, sir. But I'm asking you to please not disrupt the courtroom. And I'm asking you that as a gentleman. Can you do that, sir?

MR. McCOY:

Yes, sir, I can, Your Honor. I give you my word as a gentleman. I won't interrupt anymore.

THE COURT:

All right, Mr. McCoy, I appreciate that, sir. All right, thank you very much, sir. All right, Mr. Marvin. You have had an opportunity to read the instructions to the jury?

MR. MARVIN:

We have, Your Honor. I don't have a problem with anything in here.

THE COURT:

All right, Mr. English, you've had the opportunity to read the instructions, is that correct?

MR. ENGLISH:

I have, Your Honor.

THE COURT:

Do you have any changes?

MR. ENGLISH:

I don't, Your Honor.

THE COURT:

All right. Then I will ask my law clerk to go upstairs and make this a final original copy of everything that will be given to the jury. All right.

MR. SHERIFF:

Are you ready for the audience to come in?

THE COURT:

Yes, sir, I am ready for the audience to be brought in. Yes, and let Ms. Gregrich go get the evidence please.

(AUDIENCE ALLOWED INTO COURTROOM)

MR. MARVIN:

Your Honor?

THE COURT:

Yes,

MR. MARVIN:

On the jury charge, it looks like –

THE COURT:

Get next to a microphone, please.

MR. MARVIN:

Can we – There's one thing that – at the top of the second page where you talk about aggravated burglary?

THE COURT:

Yes, sir.

MR. MARVIN:

I think it's paragraph three of the statute that says that you – someone that commits a battery after entering a residence – That first part where if you arm yourself with a dangerous weapon, or you arm yourself with a dangerous weapon after entering, or you commit a battery on a person while in the residence.

MR. ENGLISH:

I question why do we even need that instruction, Your Honor. It's irrelevant to the case.

THE COURT:

All right.

MR. MARVIN:

Well, it's relevant because –

THE COURT:

Get next to the microphone, please.

MR. MARVIN:

– it's – because that's one of the ways that a case can be first degree murder.

MR. ENGLISH:

But it's – it's contingent upon that there was an initial intent to burglarize.

MR. MARVIN:

No. If you commit a battery on a person after entering or –

MR. ENGLISH:

Oh, we're at the page – Now, tell me again what you're talking about.

MR. MARVIN:

Well, it's not on here. But aggravated burglary is where you are armed when you are committing a burglary or arm yourself after you've entered the structure, or -

THE COURT:

Can I read the statute to you since I have it in front of me?

MR. MARVIN:

Yes.

THE COURT:

May I read the statute to you?

MR. ENGLISH:

Yes, Your Honor.

THE COURT:

All right. "Aggravated Burglary is the unauthorized entering of any inhabited dwelling or any structure, watercraft or movable where a person is present with the intent to commit a felony or any theft therein if the offender (1) is armed with a dangerous weapon; or (2) after entering arms himself with a dangerous weapon; or (3) commits a battery upon any person while in such place or in entering or leaving such place." And that's what the statute says. So, the instruction says, "Aggravated burglary is the unauthorized entering of any inhabited dwelling with the specific intent to commit a felony or theft therein if the defendant is armed with a dangerous weapon or arms himself with a dangerous weapon after entering."

MR. ENGLISH:

So there has been no evidence in this case that there was an unauthorized entry. None.

MR. MARVIN:

Well –

THE COURT:

All right.

MR. MARVIN:

Your Honor, I mean he came to their house with a gun.

MR. ENGLISH:

But if they opened the door and let their son-in-law in, that's not an unauthorized entry.

MR. MARVIN:

Okay. But it becomes one if you arm yourself after you got in there – if he just picked up a gun off their floor.

MR. ENGLISH:

Read the statute again for me, Judge. I'm sorry.

THE COURT:

Aggravated burglary is the unauthorized entering - Excuse me. "Aggravated burglary is the unauthorized entering of any inhabited dwelling or any structure, watercraft or movable, where a person is present with the intent to commit a felony or any theft therein if the offender is armed with a dangerous weapon; or (2) after entering himself (sic) arms himself with a dangerous weapon; or (3) commits a battery upon any person while in such place or in entering or leaving such place.

MR. ENGLISH:

The chair of an aggravated battery is unauthorized entry. That's what the chair is. There has been no evidence put in front of this jury or no accusation put in front of this jury that the entry inside the in-laws' house of Mr. McCoy was unauthorized.

MR. MARVIN:

Well, what is S-1? The 911 call. Do you think she invited him in and then called 911 screaming?

MR. ENGLISH:

That's – that's – that's – the facts of this case. The evidence in this case is he is inside the house. Those are his in-laws' house. There's been no evidence put forward in this case that Mr. McCoy forced his way in, broke into the house or did anything. It's not – that is not in the evidence in this case.

MR. MARVIN:

Your Honor, we have – we have shown the jury, let them listen to that 911 tape. I can't produce Christine Colston here today to tell you she didn't want him in that house. And I can't produce Willie Young to tell them he didn't invite him into the house. And I can't produce Gregory for the same reason. This is ridiculous. Aggravated battery – burglary is in the first degree statute and the facts would way more indicate that he did not have authority to be in that house than they do not. And there's been a mountain of evidence. They've seen what the house looked like and the dead bodies inside. It's in the first degree murder statute. We're only asking that you just read the entire statute. I don't have a problem taking out the watercraft or movable because those obviously don't apply. But other than that just read the entire statute. I mean just – just instruct them on the entire statute.

MR. ENGLISH:

Your Honor, let me just respond briefly and then the Court can make a decision. There's been numerous police officers testified about the crime scene. There was no testimony that there was a forced entry. There was no testimony that the back window was broke out.

There was no testimony that the kitchen door was kicked in. As Mr. Marvin can make that argument, I can make the argument that Mr. McCoy knocked on the door to his in-laws and his in-laws opened the door and he went in.

MR. MARVIN:

Well, I welcome that opportunity to argue that. He can argue it to the jury and I can argue it to the jury and they can believe whatever they want.

THE COURT:

All right. My first impression is that this is -what he is stating is an aggravating factor which can be argued. It is able to be argued by you the other side of that that that aggravating factor does not apply. I will not make that my final ruling. I will ask my law clerk while we are doing this to check the case law regarding this. But that is my first impression at this point in time.

MR. ENGLISH:

That's fine, Your Honor.

THE COURT:

But I will not make that my final ruling, but I will ask him to check that and as soon as he finds the law on that I will ask him to come back down. Mr. Marvin, are there any other corrections that you see that need to be made to this charge from your side, sir?

MR. MARVIN:

No, sir.

THE COURT:

Mr. English, do you see any other corrections other than that objection that you've raised that need to be made to these charges, sir?

MR. ENGLISH:

No, Your Honor.

THE COURT:

Then I will ask that you go upstairs and look. All right, any other matters that need to be taken up outside the presence of the jury, Mr. Marvin?

MR. MARVIN:

No, sir.

THE COURT:

Mr. English?

MR. ENGLISH:

None, Your Honor.

MR. SHERIFF:

All rise for the jury.

(JURY ESCORTED INTO COURTROOM)

MR. SHERIFF:

All jurors are present, Your Honor.

THE COURT:

You may be seated. Mr. English, you may proceed, sir.

**DIRECT EXAMINATION OF DR. VIGEN BY MR. ENGLISH (CONTINUED):**

Q Dr. Vigen, I just want to – before we pick back up I wanted to – I needed to ask you about a couple of items. In your collateral interviews, you interviewed

Marcus Hines and Mr. McCoy has referred to Marcus Hines a number of times.

A Yes, sir.

Q What was that interview about?

A Mr. McCoy said that Marcus Hines is a Shreveport police officer and Marcus – Mr. McCoy said that he will say that Mr. -that Mr. McCoy did not fit the detectives' description in Bossier City; and that Marcus Hines would go to his mother and father's home, Mr. McCoy's mother's and father's home, that night. And so –

Q It – Was it that night of the – the murders, correct?

A Of the murders, yes.

Q Yes.

A So I interviewed Shreveport police officer Marcus Hines and he said that he has known Mr. McCoy all of his life; that he lived across the street from Mr. McCoy's grandmother. He heard the dispatch about Robert McCoy and the description given by the dispatcher was of a skinny guy that they were looking for. And Officer Hines said that he hadn't seen Mr. McCoy prior to the incident in many years and he knew that Mr. McCoy was a more stocky and muscular man, so he thought that the dispatcher describing a skinny man was mistaken. But he did know Mr. McCoy and so, he, Marcus Hines and six other Shreveport police officers went to the home of Mr. and Mrs. – of Mr. McCoy's parents and they told them that they were looking for Mr. McCoy and he admitted that he went there with six other officers.

Q So – so Marcus Hines didn't have – doesn't have – Mr. McCoy is indicating that Officer Hines has information and is being excluded from this trial that may be able to show his innocence when, in fact, Marcus Hines went to his parents' house with six other office – officers in order to see if Mr. McCoy was there and arrest him?

A That's correct.

Q Okay.

A But the point for me that's important is that there's a small kernel of truth in Mr. McCoy's understanding of this and maybe the description from the dispatcher was somewhat disparate from what Mr. McCoy is really like, but that disparity doesn't mean that there's a conspiracy by Officer Humphrey and Mr. Marvin and all the other police officers.

Q And so he took that small nugget and refabricated it?

A Yes. That's – that's an example of it.

Q And – and what you say is a malignant part of his personality?

A Yes.

Q One of the individuals that you interviewed was Judge Shonda Stone?

A Yes.

Q Would you explain that one for us?

A Yes. Shondra – S-h-o-n-d-a, Shonda Stone is now a Shreveport Juvenile Court judge, but at the time that this occurred she was a practicing lawyer. And Mr. McCoy said that she had agreed to represent him in his divorce, I think, from Yolanda, but that she had

backed out and that she knew that Yolanda had been unfaithful to Mr. McCoy.

Q Did you interview Judge Stone?

A Yes, I did.

Q And what did you find?

A Well, essentially without going into – reading the notes exactly, Judge Stone, as a lawyer, said that she was coming out of her office, she met Mr. McCoy in downtown Shreveport. He was on the street. He looked very distraught. She spoke to him. He asked her whether she was an attorney. She said yes. And she said is there something she could do for him. And – and eventually she invited him to come up to her office and he explained that he was getting this divorce and so on and would she represent him. She said that she'd be willing to represent him, but gave her – gave him fee schedules and so on and – and he said he didn't have that money at that point but that he would call her back. And eventually I think an appointment was set for her to meet with him again and the appointment was around the time that these killings occurred and he didn't come for the appointment. And so, she didn't have her – have a chance to represent him.

Q And – But she had no knowledge of Yolanda Colston having affairs as Mr. McCoy had told you?

A Just other than him telling – other than Mr. McCoy informing her of that. I mean she had no independent knowledge, but somehow, again, this is another sort of a kernel of truth that I think he has refabricated in his mind thinking that this judge, Judge Stone, is somehow going to validate –

Q And vindicate him?

A – and vindicate his perceptions of all this.

Q Okay. I want to – we were – before we broke for lunch as we indicated the records show that Mr. McCoy has attempted suicide a number of times.

A Yes.

Q In your opinion were these serious suicides?

A Well, all suicide attempts are serious, but they – they appeared – the corrections officers at the Bossier correctional facilities have considered them very serious, and apparently the officers in Lewiston, Idaho, considered them serious.

Q So – So I want to talk to you briefly about them. On 5-12-08 – So – I'm sorry, when we broke I was indicating to you – I want to refresh the jury and your memory – was that Mr. Gayle Houston testified that when he came in contact with Mr. McCoy immediately after these murders had taken place he was crying and he was telling them that he was going to commit suicide, he wasn't going back. Now, does that sound like to you that somebody is calm and disassociated from the events that he has –he has just engaged in?

A It doesn't sound like he's calm. And I don't know what you mean by disassociated.

Q I mean – I mean – I mean does it sound like someone who's distraught?

A Yes.

Q Okay. That's what I wanted to ask you. Okay. And then he's subsequently arrested on 5-12-08 in Lewiston, Idaho, where he's -he's found in the jail cell, has tied sheets around his neck and attempted to hang himself. Am I – am I – is that – is that correct?

A Yes, sir.

Q Okay. And is unconscious and rushed to the hospital?

A Yes.

Q Now, what does that tell you about Mr. McCoy's mental state immediately after these murders had taken place?

A You know, I didn't examine him before, during or after.

Q Okay.

A I don't – I don't know – All I know is what you all know in that it was a suicide attempt.

Q Okay.

A And so I don't know –

Q Can – can you glean from the fact that he's attempting to commit suicide – You know, let me ask you this. Does – Again, does that show that someone is in distress and feeling guilt about what they've done?

A Yes, it can.

Q Let me ask you this question. What is – what are the causes of suicide? Let's answer that question right fast. What are the causes of suicide?

A Well, people commit suicide for all kinds of – attempt and commit suicide for different reasons. People who are extremely depressed attempt suicide. People who are impulsive attempt suicide. People who are psychotic and hearing voices ordering them to commit suicide commit suicide. People who have not lived up to other people's expectations often commit suicide. People who are elderly or even people who

have serious physical disorders like Lou Gehrig's disease, ALS, or something like that, where they're facing such a debilitating and terrible disease often commit suicide. People commit suicide because they've committed a bad act and they feel badly about it and they want to punish themselves before other people get a chance to punish them. And then there's a group of people that from early, early childhood feel like they should not be; that they have no right to exist; that they're not important; and they are ashamed to be – to live and they often commit suicide out of shame. So, you have a whole host of reasons why people attempt and/or commit suicide.

Q And – All right, I want to – knowing what you know from Mr. McCoy and knowing how many times he's attempted suicide since he's been incarcerated, which one of those do you think he fits in?

A Well, again, I see – I see Mr. McCoy as this façade, a shell where there's no inner – inner core personality. There's no real self inside. And so, if there's an assault to this façade that he presents and wants to maintain for himself, if there's an attack on that he's going to feel an immense sense of inadequacy and he's got to rebuild the façade quickly by all the means we're talking about. So my guess is when his defenses go so low then he has to refabricate and rebuild. And I think, you know, the most obvious thing to me and I don't know if it's – is, you know, that he's done a horrible and terrible act. He's taken the lives of three innocent people. That is horrific. And you do that and it's hard to maintain any kind of façade given that type of behavior.

Q Is he feeling guilt?

A I would say he's – his defenses are so low he's – he feels guilt and he probably has to do whatever he can to rebuild the facade immediately.

Q Okay. So, in addition to that suicide attempt he's put on suicide watch and then he's transferred to Bossier Maximum?

A Yes.

Q And he is subsequently found in a second suicide attempt where he swallowed razor blades. Are you familiar with that one?

A Yes.

Q Now – And the description of what the deputies – I believe it happened on 6-8-08, and what the personnel found is pretty graphic. Do you have any doubt that Mr. McCoy – that was a serious suicide attempt?

A No. Like I – Like I said, I think the – the personnel at the correctional facility were taking it very seriously and they have during his entire incarceration there.

Q The next suicide attempt Mr. McCoy – Again, I believe this is in July of '08, Mr. McCoy – This happened on 7-21-08. Mr. McCoy begins coughing and complaining he could not breathe. McCoy began throwing up large amounts of what appeared to be toilet paper. He had stuffed paper down his throat to choke – That's on 7 –

A 7-21.

Q 7-21-08?

A Yes.

Q Do you view that as a serious suicide attempt?

A Yeah – Yes.

Q And this is some – within two and a half months after these murders have been committed?

A Yes.

Q And he's – and he's attempted three suicides on that one. And on 7-29 Mr. McCoy attempts to commit suicide by chewing his arm off. Are you familiar with that one?

A Yes, sir.

Q In fact, the wound is so bad he loses so much blood he's rushed to the hospital?

A Yes.

Q And, in fact, he's fighting the EMS people the whole way, isn't that correct?

A Yes.

Q Who are trying to save his life?

A Yes.

Q His behavior is so erratic. He's so focused on going through with the suicide that when he gets to the hospital they vent him, is that correct?

A Yes.

Q What does that mean when you say "vent"?

A Well, they artificially breathe for him. They sedate him with medications and then breathe for him.

Q Now, Mr. McCoy indicated that he was vented and put on a ventilator because he was having trouble – trouble breathing? Have you reviewed those medical records?

A Yes.

Q Is that true?

A No.

Q Why was he vented?

A Because he was combative.

Q And it was the only way that they could – could restrain him?

A Right. The medical people needed to restrain him in order to treat him. They could not treat him when he was that combative.

Q Okay, Doctor, and all of this is happening within sixty days, two and a half months of the murders taking place?

A Yes.

Q Now, I want to ask you again, you – you've given a very serious diagnosis of Mr. McCoy with a very serious personality disorder. I think you used the word "malignant". Okay. Mr. McCoy is – Doctor, I'm sorry, trying to chew your arm off doesn't sound normal to me. That's deeper than trying to go suicidal to me as a lay person. That doesn't sound normal to me. That is a severe – What does the word "disassociation" mean? What is that? A Well, there's a diagnosis called Dissociative Disorder in the diagnostic and statistical manual. And essentially, if you can think of – a simple example is when any of us drive like from here to Baton Rouge or something and we don't remember going through Alexandria. We were thinking about something else so we were sort of not focused, but yet we drove perfectly well. So we sort of disassociate in a very light easy way. And, you know, if you go to more severe examples, for example, children who are attacked sexually often sort of – during the attack they sort of leave the

area. They sort of leave their bodies and they disassociate from what's going on and they go elsewhere in their minds. And so, they're not present as a way of defending against the pain of someone attacking them. And so, dissociative disorders are associated when somebody does something so horrific or something is happening that is so horrific they sort of leave mentally and emotionally. And we certainly considered the dissociative disorder when I learned that Mr. McCoy was chewing off his arm because that – to be chewing at your arm you sort -to do that behavior you sort of have to have some kind of distance from yourself in order to do it. And it is – it is, indeed, serious. It's – And there is a different personality disorder called the borderline personality disorder which is also very, very severe. And it has within it – its diagnostic characters are self-mutilation. People cut themselves frequently to alleviate pain or they do self-destructive body things, usually cutting. And, you know, when a person is in such an immense amount of emotional pain they sometimes cut themselves as a way of de-focusing on how badly they feel and then they can focus on self-mutilation. So I considered the dissociative disorder and maybe Mr. McCoy was dissociating when he was chewing at his arm. But I – I did not make that diagnosis because it does not comply – it doesn't fit with the whole pattern here of his behavior. So I ruled that out.

Q So, let me ask you again and we'll move on. So you agree that that's a pretty serious – It's not pretty serious. That is very serious for someone to start trying to chew their arm off and bleed to death?

A Well, you know, it obviously is serious. But Mr. – Mr. – And you have to – In my experience, there are a lot of people that are, you know, that may cut themselves for attention and so on, or –

Q Okay. Wait – Go ahead. No, go ahead. Go ahead.

A Not that that's not serious. I don't think cutting yourself just to get attention is a very – is a very healthy kind of behavior. But, you know, certainly chewing your arm, I would agree with you is a serious behavior.

Q I believe that the medical records stated that Mr. McCoy pulled a sheet over him?

A Yes, trying to hide that.

Q Hiding from the personnel to see him and began chewing his arm off. So if he's looking for attention, you don't pull a sheet over yourself do you and hide, do you?

A No, you wouldn't. That's true.

Q Now, given what your diagnosis of Mr. McCoy is, your clinical diagnosis that you stated for the jury, given the rash of suicide attempts that Mr. McCoy has undertaken, given the bizarre behavior that we've seen in this courtroom and we saw from this witness stand, can we agree that Mr. McCoy is suffering from serious emotional and mental illness?

A I – From my point of view he has a serious personality disorder which is a mental illness – is a mental disorder. So, when I make a diagnosis I diagnose the presence or the absence of a mental disorder. And I believe he has a paranoid personality disorder.

Q Mr. McCoy has been found guilty of killing three people. Three innocent people.

A Yes, sir.

Q Can you state with any certainty that the diagnosis which you have made of Mr. McCoy of what you have just said, can you make with any certainty that it played a role in his mind when he was in that house?

A Well, I can say that it certainly – Yes, I think it played a role. I couldn't say that it caused the – the – the murder of these three people. It's not causative, but it certainly played a role. It's played a role in all of his dysfunctional relationships in his life. And it certainly could have – it certainly could have played a very big role in this, sure.

Q Could it have played a significant role in what – Because we don't know what was going on in Mr. McCoy's mind. Nobody knows. And Mr. McCoy hasn't talked to you, has he?

A He won't – he won't –

Q He hasn't – Go ahead. He hasn't?

A No. Mr. McCoy – I don't – I've not been able to understand Mr. McCoy and what happened in that home and what was in his mind. I don't know.

Q And he – he – he's never ever up to this day acknowledged that he was even in that house and that he committed the murders, correct?

A That's correct.

Q But from – In your professional opinion, whatever was going on in his mind in that house his malignant personality disorder would have had a significant impact on his thought process?

A I – I think it certainly was – He certainly had the personality disorder prior to, during and now. And it certainly influenced his behavior in that house.

Q Doctor, we started off by saying that you have had a lot of experience dealing in capital cases, correct?

A Yes.

Q How many times have you been to Angola?

A Probably between ten and twenty times.

Q And do you presently have people that you are working with that are on death row?

A No.

Q Okay. You have had people in the past –

A Yes.

Q – that you worked with on death row? I want to ask you a few questions about that. Describe what it's like for a person to be on death row.

A Well, Angola is a – is 18,000 acres. About 5,000 of the acres are used for about – between seven, eight or nine different prisons in the prison. It's called the Louisiana State Penitentiary at Angola. And your question is describe –

Q Specifically about death row.

A Okay. Death row – The last time I was on death row it's -there are individual cells on three tiers. And the cells are about 8 by 10. And there's a bunk, and a sink, and a toilet and three walls are concrete block, or concrete, and one wall is bars. The bars look out onto a tier and if you're on the bottom floor they're out onto the floor. If you're on the second or third floor you look out onto windows. Down at the end of the tier -are some telephones that can be used and some showers. And the inmate – I think generally an inmate who is housed on death row spends twenty-four or twenty-three of twenty-four hours in the cell. And sometime

during a twenty-four-hour cycle, totally unpredictable I believe to the inmate, the inmate is taken out and can either go outside and recreate and they have like dog runs. They're kind of – they're wire mesh outside areas that are covered on the top and on all sides basketball courts – small court in basketball so you can be outside and can recreate or he can use that time to shower and/or make calls and so on. So it's a very confined space. All the food is brought to the inmate in the cell, three meals a day. And whenever the inmate leaves the cell he's accompanied by two corrections officers. He's shackled at the wrist and at the – at the ankles and he's always escorted by two corrections officers in coming and going and so on. So it's a very – it's a very high security constricted, pretty much emotionally – emotional-sensory depravation kind of living.

Q Is he allowed visitors?

A Yes. Yes.

Q What about human contact?

A The men on death row have very, very little tactical contact with anyone else other than perhaps a doctor or a nurse who might be examining them in the infirmary.

Q Can you describe for the jury – I don't know the word for it, but just briefly can you describe for the jury what happens in an execution?

A Well, I've never been in an execution. I have been in the death chambers in Mississippi, Louisiana and – and Texas, at Huntsville, Texas, where the executions occur at the Walls Unit.

MR. MARVIN:

Your Honor, we're going to object. I think that's outside Dr. Vigen's field of expertise, number one. Number two, he told us he hasn't even ever seen one.

So, I don't think it's in his field – within his field of expertise to be informing the jury on that subject.

MR. ENGLISH:

Let me withdraw my question and let me see if I can't lay some foundation and see if that would get us past the objection.

Q You have –

MR. ENGLISH:

I withdraw that question, Your Honor.

Q You have spent your career studying and writing about capital cases, correct?

A That's an aspect. It's not all that I –

Q I – I – No, I'm saying about generally capital – capital cases in general?

A Yes.

Q Have you during your career ever studied and looked at the actual execution itself?

A I've never watched an execution.

Q I'm not asking you whether or not you watched them. I'm asking you have you ever written about and studied the actual execution itself?

A I've studied about it. I've not written about it.

Q Okay. Do you feel confident that what you studied that you have a good idea of what happens inside of an execution?

A Well, Warden Cain has explained it to me. I've – Like I said, I've visited the chambers.

MR. MARVIN:

Your Honor, I still object. This is not – It has nothing to do with psychology. It's nothing within his field. It would be no different than someone else that had read a book about it getting up there and saying that. It's just beyond the scope of his field of expertise.

THE COURT:

I'll sustain at this time, Mr. English.

Q Let's talk about life. I mean do you – Again, you – you've visited Angola. You've dealt with capital cases. You have an idea of what life at Angola is like?

A Yes.

Q Can you describe it for the jury?

A Yes. Let me just lay a foundation on that myself, if I may. A recent project that I had the privilege of doing was interviewing men who were on death row for video – on video tape and then interviewing men who had been on death row who had received life sentences. And we use those tapes with the Indigent Defenders Office in Caddo Parish with inmates who are offered a life sentence and want to resist that and not accept it. But in – in the prison there during all of these interviews that took place at Angola most inmates live in large dormitories where ninety men live. You have to know that there are about 5200 inmates at Angola. Four thousand or so are there for life. So the majority of the people that are at Angola are there sentenced to life. And so, the lifers live in large dormitories of ninety men. There are fans. They have small bunks, I think 18 to 24 inches wide. They have a small locker that ex-

ists under the bunks where they – where their total belongings are. And they get up in the morning and they shower in a large room. They use the toilet facilities in a large open room. They prepare for work. They eat. And during their first years in prison they spend most of their time working in the fields. They come back for lunch. They go back, receive their tools. They work in the fields in the afternoon. And then in the evening they may have some free time in a recreational area or so on. But they – they essentially live in large dormitories for many, many years before they are allowed to live in smaller facilities with – with more privacy.

Q As I read through the jury questionnaires, the majority of the people when asked do you believe that life in – that prisoners who have long prison sentences live better than those on the outside, just regular citizens, an extraordinary number of jurors checked that they believe that. In your opinion, is that true?

A Well, prison life, as I appreciate it having been in a lot of them, is very regulated. And so, you lose freedom. And, you know, you're told when to get up and where to go and what to do and how to do it and when to go through this door and when to go through that door. It's just a tremendous loss of freedom of movement. I mean it is very sparse physical facilities. You don't own much. You don't have much privacy. And you generally work with a whole bunch of other men who have been convicted of violent crimes. And you're told what to do and when to do it and where to do it.

Q And prison life – long-term prison life develops its own culture, correct?

A Yes.

Q So I'm assuming that if you are one of 4,000 other individuals sentenced to life and are all sentenced to life for committing violent crimes, that's not easy to navigate?

A Well, it's – it is not easy to navigate and it's sort of counterintuitive. You'd think that when you put all of these violent people together that have committed violent crimes that the prison would be a very violent place to live. That's what we would assume. But prison's actually – It's counterintuitive. Prisons actually do work. And we have very good prisons. I think Louisiana State Penitentiary is an excellent prison. I think the prison system in Texas is an excellent system. You have a lot of control. You have professional corrections officer. You don't have the presence of alcohol, drugs and weapons and guns, even though there are exceptions to that. But prisons control behavior and prisons work in terms of reducing violence. The violence levels inmate on inmate and inmate on staff at Louisiana State Penitentiary are low.

Q But my question to you is I would assume that you would think twice about BS'ing someone who you're living with who's a violent criminal. There's a code among those prisoners. Am I right?

A I think living with other inmates who are good at conning behavior are not as easily conned as the rest of us might be. I mean I think living with inmates there's going to – you're going to get away with a lot less conning of them I guess. Is that what you're wanting?

Q That's what – that's the question I'm asking. That's exactly what I'm asking.

A I haven't researched that issue.

Q If you can't speak to it, I understand. Go ahead.

A I would think that's the case.

Q Okay.

A I mean you're living with a pretty hard group – hardcore group of guys.

Q What is the cost to taxpayers and citizens for an inmate that's on death row?

A Well, generally – And the literature on that is very wide and it's very hard to understand it because there's so many states and everybody calculates everything differently.

Q Can you give me a general notion – a general idea? I understand that you can't speak specifically –

A What I believe about it is that an inmate serving a life sentence versus a death sentence, the death sentence is going to cost about four times more than the life sentence in overall taxpayer dollars.

Q And is it safe to say that an individual on death row could cost the taxpayers tens of millions of dollars?

A Yes, there are studies that show that. Do you want me to explain that?

Q Sure.

A Well, there are many people who are – I think 60 percent or so of people who are sentenced to death don't actually receive the death penalty. There – there are many people whose cases are overturned, people who die and so on. And so, I think about a third of those sentenced to death actually get close to death. So when you have all those people going through a process – I mean the trial court is an expensive process. This

trial court's been run very efficiently. But trial courts are – are expensive. Appeals are expensive. Some things are remanded back to the trial court. Other – other cases come back and get new trials. Other cases get new hearings. So there's just a lot of litigation that's expensive in this whole process for inmates who are convicted to death row. Many of those people who end up on death row are not executed and so when you calculate all those variables and you see one who is executed the costs are in the millions because you're factoring in all the costs for these other people that were given a death sentence but actually were not executed.

Q And do you have any idea how much it cost the State of Louisiana to maintain a prisoner for one year?

MR. MARVIN:

Your Honor, we're going to object at this time.

Cost is not relevant. It's just simply not relevant here. He can talk about prison life and all that, but the cost of it is nowhere in the law book. Nowhere in your jury instruction are they to consider cost.

MR. ENGLISH:

Your – Your Honor, this is a capital murder case. Dr. Vigen – The jury is deciding whether or not to impose capital murder – I mean to impose a death penalty in this case. They have – they have two considerations. One is life. One is death. Dr. Vigen has testified that it cost tens of millions of dollars to keep someone on death row. The logical and next question is how much does it cost the taxpayers to keep someone in prison for twenty, twenty-five years or life. That is a reasonable question. I believe it's very relevant to these proceedings. The jury has a right -There's – there's a – there's a lot of evidence put into this case that doesn't go into the –

into the charge sheet, but the jury has a right to know and to hear this information. The D.A. is well ripe to put someone on to counteract what Dr. Vigen may say.

THE COURT:

I'm going to overrule at this time –

MR. ENGLISH:

Thank you.

THE COURT:

– but I'm going to ask that that question –

MR. ENGLISH:

I'll move quickly, Your Honor.

Q Do you have an idea, Dr. Vigen?

A Speaking specifically about Louisiana, recently in 2009 the attorney general who is Buddy Caldwell, who was a former district attorney like Mr. – like Mr. Marvin and Judge Scott is in Caddo, said that to try a second degree murder case is fifteen to $20,000. To try a death penalty case is about $250,000. The average – the budget at Angola is $126 million and they have 5200 inmates. So the average budget is $63.23 a day to maintain an inmate.

Q I'm so bad at math. So $63 a day times 360?

A Let me put it this way. The best study that I've read in this – in this area is California. And it costs $90,000 a year more for California to house a death row inmate than a regular inmate. That's the –

Q And so, simply, and I'm going to move on, you're talking about tens of millions of dollars to house a death row inmate over his life in jail and you're talk-

ing about hundreds of thousands of dollars for someone who is serving life?

A Yes, but it's – it's tens of millions of dollars per execution. That's that figure. That's – You can have 30 or $40 million to execute one person when you consider all the people that – that –

Q I understand.

A So you can't say one person cost that.

Q How – how often is an individual –Do you know how often an individual is executed in Louisiana?

A We have – I think we had an execution in 2009 and I think prior to that it was in – like back in 1999.

Q So it's very rare?

A It's rare in Louisiana.

Q Do you know how many – Do you know how many death row inmates there are right now?

A There are 82 men and two women.

Q And so if you just do the statistics the chances of those 82 people being executed is small?

A Yes. There are – there are men on death row that have been there twenty-plus years. And so I think the average level of time on death row is about twelve and a half years nationally. But in Louisiana I think it would be – it would be greater than that.

Q And if Mr. McCoy receives a life sentence is that a serious punishment?

A Absolutely.

Q You've looked at a lot of death penalty cases in your career?

A Yes, sir.

Q I'm assuming you've seen some pretty gruesome facts?

A I have.

Q Do you believe in the death penalty?

A Well, in certain circumstances I would – if I were a juror I could give the death penalty in a certain – in certain cases, yes.

Q And knowing what you know about – knowing what you know about the cost of death row versus the cost of life, and knowing what you know about what a prisoner on life – in life – with a life sentence has to go through, is – Do prisoners with life ever come to terms with the crimes that they may have committed?

A Oh, yes. Yes.

Q How long does it take?

A Oh, I – I don't know. I may not – I've talked to many older inmates who have very much come to terms with – with the crimes they've committed. So I think the possibility and the – I guess even a probability – I think a high number of them have that I've talked to. And I've not talked to everybody out there who has, but I think it's certainly possible.

Q Do you think life in this case would be appropriate?

A Well, that's – that – I don't – I don't want to answer – I think that's their – their decision not mine.

MR. ENGLISH:

I tender. I'm sorry, just one other question. I apologize, Schuyler. If you'll give me one second.

MR. MARVIN:

Go ahead.

Q How often do governors commute the sentence of inmates on death row?

A I don't know of any in Louisiana in the recent past. Any governor that's commuted –

Q It doesn't happen?

A I don't believe so.

Q In Louisiana?

A I don't believe so.

Q Thank you.

MR. ENGLISH:

I tender.

THE COURT:

Mr. Marvin.

MR. MARVIN:

Thank you.

* * *

[CROSS EXAMINATION OF
DR. VIGEN BY MR. MARVIN]

that he went to some college and him telling someone that he played professional football, and then I heard you say – I wrote it down – something about the possibilities the possibilities in the psychological world, and I wrote or realm, of all of the types of disorders and dysfunctions and things that – that you do in your field, and there are literally hundreds or thousands of them, are there not? That you – that you would start by elim-

inating by saying, well, he doesn't have this, he doesn't have that and you narrowed it down to narcissistic personality disorder, attachment disorder and the third one?

A In the – In the DSM IV there are four hundred diagnostic categories or so. And of those I think he is best understood with the narcissistic personality disorder. But I'm not sure I understand your question.

Q Well, I just heard you testify this morning and briefly this afternoon regarding different types of illnesses and Mr. English was just kind of I think trying to lump them into something and just call it mental disorder. And you were trying to say, well, no, it's a specific illness or a specific type of disorder. Is that right?

A Yes.

Q Okay. What if Robert McCoy is just – just a liar? I mean if I said I played professional football my buddy out there that I'd see in the afternoon is going to say, well, he's just a liar. You know, I don't have narcissistic personality disorder, attachment disorder. I'm just a liar.

A Certainly – Yeah, certainly, you know, we considered to what extent is Mr. McCoy a liar. I mean, first of all, it's – first of all, all of us in this room have lied in our histories. None of us are immune from that. And I would say that if any of us claim that we didn't lie and never have lied, we're lying now. So, all of us lie. I think lying is difficult to detect. And I think Mr, McCoy certainly is not immune from lying. I think he lied to a number of people, especially women, about his accomplishments and so on as a way of enhancing, you know, his personality and maintaining this facade or system of belief that he has about himself. So I – I

would never submit that he's not –he hasn't lied or isn't lying at times about all this.

Q Okay.

A I think that can be very much a component of who he is.

Q All right. And because I – I never heard the word "lie" until now. I was always hearing fabricate, refabricate. But just some people just lie. Some –

A Some –

Q Some people are just mean.

A Some people are mean and some people just lie. That's true.

Q Now, let's talk a minute about – I'm not sure I understood your testimony regarding his guilt, his feeling of guilt. I mean, tell me again – I did not quite understand what you meant by that.

A Well, I guess what I – Mr. Marvin, I was trying to define what I think guilt is, first of all. And I think all that Mr. English has – what I saw in the thread of Mr. English's questions he wanted to know what is guilt and then he wanted to know what are the reasons people attempt suicide. And is one of those reasons they attempt suicide because they have committed some act about which they feel guilty and they want to self punish. And suicide is an aggressive act towards oneself. And I think – I think that was the tenor of his questions.

Q So the suicide attempts, I believe there were four, that you learned about could have been attempted by Mr. McCoy because he felt guilt over all this?

A Could have been, yes.

Q Okay. Okay. Dr. Vigen, just to make the record clear and I

* * *

(ENGLISH – CLOSING ARGUMENT)

MR. ENGLISH:

I told you when this case started that Robert McCoy committed these crimes. I told you in my closing that Robert McCoy committed these crimes. And I asked you at the closing to consider second degree murder. I asked you that when I readily admitted to you in both my opening and my closing that the evidence in this case was overwhelming. And you chose to impose first degree murder. I respect that because I know it wasn't easy. Though what I respect is despite the overwhelming evidence in this case, despite the skill of Schuyler Marvin, our district attorney, as a lawyer, you went back in that room and you deliberated and you asked questions and you wrestled with it. That's all I could ask. As I said yesterday, Gregory Colston, Willie Young, Christine, we demand that they have justice. Civil society is too fragile not to. The family, Yolanda, Pauline, El'iot, I can't imagine – I can't imagine – I can't imagine Yolanda's pain. I don't want to think about it. It's too much for me. And God bless her that she can bear it and come into this courtroom. I've had a tear in my eye for Gregory since this case started. You cannot be affected by it. But the law says, "And justice for all". That's what the law says. And as I told you yesterday that's a tough one for us to live up to. That's a tough one for that – to live up to. Robert McCoy caused the death of those people, but we live in a society that says Robert McCoy has a right to justice that we deem, that you deem appropriate. And

over the last ten days or more, I have given Robert McCoy everything that I have. Judge Cox has given him everything that he has to make sure that he had a fair trial and to make sure that those sweet arms of justice touch him no matter how difficult it is, no matter how repulsed we are by these crimes. The law says Robert McCoy --the law must apply to him. When I sit down from you -- when I sit down from this closing you won't hear my voice anymore. My work will be done. And this heavy, heavy burden will fall to each one of you. And I remind you, you are the judge in this case and you've got to wrestle with some facts and you have to wrestle with some evidence. No matter how -- I'm not telling you -- You have to consider Yolanda, Eric and Pauline and Lorenzo and the coach's testimony. You have to consider the impact that these crimes have had on their life. That's the law. And as human beings I would expect and require you to do no less. But the law says you've got to do what I don't have to do, what Schuyler doesn't have to do, and what this judge doesn't have to do. The law says you have got to try to step outside the emotions, the pain, the ugliness, the revulsion and look at this case and apply the law. And look at this case and make a determination as to whether or not Robert McCoy will spend the rest of his life in jail or whether or not he will be given the death penalty. The State is going to offer -- and they have -- Schuyler has argued that there are aggravating circumstances. I have a duty to challenge him. I have a duty to challenge him. The law requires that I do it and the law requires that you evaluate it. The first is that the offender was engaged in the perpetration of an attempted aggravated burglary. Aggravated burglary is the unauthorized entering of an inhabited dwelling with the specific intent to commit a felony or theft therein if the defendant is armed with a dangerous weapon or

arms himself with a dangerous weapon after entering. There has been no evidence put on in this case that there was an unauthorized entry. There's been no evidence that Robert McCoy kicked the door in, forced his way in, broke a window. The -- the -- the reality of it is no matter how unsettling it is, Robert McCoy went to his in-laws' house. The State failed to meet that burden. Unauthorized entry, that means he had to show that Robert McCoy was in that house against the will of the people that lived there. And you don't get to say, well, he was in the house, they must not have wanted him there. You must make your decisions based on the evidence that came from this chair. And there's been no evidence in this case that Robert McCoy forced his way into that house; that he sneaked into that house against his will. I can't tell you that Robert McCoy knocked on the door and Willie Young opened the door and said, come in, Robert, because we don't know because the evidence wasn't there. But, guess what, I don't have to prove to you that they opened the door and invited Robert McCoy in. He has to prove to you beyond a reasonable doubt that they didn't. And there is no evidence in this hearing -- in this trial to even address that. And aggravated battery is not an aggravating fact in this case. And all I ask you is that you apply the law or the evidence and I remind you, ladies and gentlemen, there's no evidence. The offender knowingly created a risk of death or great bodily harm to more than one person. You have to consider that because that's the facts of this case. It is what it is. Those are the facts of this case. You have to consider that as an aggravating factor. The third one was the offense was committed in an especially heinous, atrocious and cruel manner. The killing of three people is horrible. There's no evidence in this case anyone was tortured. There's no evidence that these deaths were not immediate.

That sounds cold. That sounds cold for me to stand here and tell you, well, the good news for Robert McCoy is he put a gun straight to their head, he killed them and they died right away. But the law says you have to consider that. The law says you have to consider how these people died. And there is no evidence other than Robert McCoy put a gun to their face at close range and he shot them. There's no evidence that they were tortured. There's no evidence that they suffered. There's no evidence that he cut -- he cut any of their body parts off and dismembered them. He -- as ugly as that sounds, as cold as that sounds, he put a gun to their heads and he shot them and he killed them. And as bad as you want to scream and I want to scream and say he killed those people, the law says heinous, atrocious and cruel. The natural argument is there is no cruel way to kill three people and there's not. But the law requires something more than the evidence that was put on in this case. Let me just say something. He had the opportunity to put on that evidence. He didn't because he doesn't have it and it's not before you. And you cannot consider that as an aggravating circumstance. So the one aggravating circumstance that you can consider, that the evidence is undisputable is, is that -- is that more than one person died in this case. The law also says you must consider -- it says even if you find an aggravating circumstance -- and you will find an aggravating circumstance because I readily admit to you and it's undisputable that there was more than one person killed in this case, you must also consider any mitigating circumstances before you decide a sentence of death should be imposed. The law specifically provides certain mitigating circumstances and they are as follows: And the one that I want you -- want to ask you to consider is the offense was committed while the offender was under the influence of ex-

treme mental or emotional disturbance; at the time of the -- at the time of the offense the capacity of the offender to appreciate the criminality of his conduct or to conform his conduct to the requirements of law; was impaired as a result of mental disease or defect or intoxication. You heard Dr. Vigen's testimony. It was unchallenged. It was unchallenged that Robert McCoy suffers from a severe emotional and personality disorder. You heard Robert McCoy's testimony from this seat. I told you that Robert McCoy was crazy because I tried to communicate to you in words that we all could understand. But Robert McCoy has some serious mental and emotional issues that impacted on him when he was in that house. I mean as Dr. Vigen testified we don't know what went on in that house. We know that Robert McCoy has serious mental and emotional defects and you heard it from this stand. You saw it. You've seen it in this courtroom since we have been here. This man attempted suicide four times. This man attempted to chew off his arm. I truly believe that there's a part of Robert McCoy that wants you to do what he's not been able to do. Kill him. I believe that -- I believe he wants suicide by proxy. He tried and he's in a controlled environment and he just can't get it done. As offensive as that may be to you, as offensive as that may be to civil society, the law says you must consider this man's mental and emotional state and you must weigh that Robert McCoy has serious emotional and mental illness and it impacted on his decision-making and how he functioned. Dr. Vigen said when you strip it all away there's nothing there. You heard him. You heard him accuse Officer Humphrey of being in a drug conspiracy, of trying to kill him. You make your decision as to whether or not he was in here just fabricating, making up a lie, trying to play on your sympathy. You heard it. You saw it. You heard Dr.

Vigen's testimony. He was credible. Schuyler Marvin says something -- he says all I'm asking you to do in this case is to apply your common sense -- in his opening statement. All I'm asking you in this case is to apply your common sense. Step back from the emotion that you feel, the anger that you feel, the horrendous stomach-turning that you feel, and evaluate Robert McCoy for what he is. And the law says you have to factor that in as a mitigating circumstance in this case. And you have to do that. Yolanda Colston testified today that Robert put a knife to her throat. My only response to that is to say of it is that that was never tested inside of a court. I'm not saying that she's lying. I'm not saying that it's not untrue. I'm saying that Robert McCoy had a -- has a right -- the law says he has a right to be -- there was a warrant out for him. And the law says, "And justice for all". It's tough. It's tough. The law says that those are mere allegations as we speak right now made against Robert McCoy because they have never been brought into this room and they have never been tested and Robert McCoy has never had the opportunity to offend himself -- to defend himself. Listen, these rules we put in place in America are tough. These rules we put in place in this society are tough because we have done what nobody else in the history of the world has done. We've said every individual, no matter how offensive we find him, no matter how he offends our sensibility -- and justice for all. The law must apply to him. Otherwise, it doesn't apply to any of us. That's why it's tough. We have been in this courtroom the last ten days dealing with this ugliness, dealing with this lack of humanity that was committed in this case. To kill a person you can't see his humanity. That's -- that's the common thread. Robert McCoy could not see the victims' case and their humanity. He lost it. I believe his mental illness played a role in it,

played a significant role in it. He lost it. But we, as a civil society -- you, as the twelve judges in this case, I'm asking you to hold on to your humanity. Ladies and gentlemen, there's been too much death in this courtroom. There's been too much -- there's been too much. I got assigned a duty. My duty for you was to stand in front of you and beg for Robert McCoy's life. It's a duty that I don't take shallow. It's a duty that I embrace because that's the duty that I signed up to do. And you have been drawn into this case because society has placed a duty upon you. I ask you to go back into this jury room and to struggle with the facts of this case and to find your humanity, to keep your humanity, to keep our humanity front and center. There's been too much death in this courtroom. I ask you to go back in that room and to grant Robert McCoy mercy. And mercy is given to those who don't deserve it. To be Christ-like is to grant mercy to those who offend us, to those who everybody says they don't deserve mercy. I ask you to do a very difficult thing, to try to step outside the emotions, to try to step outside the need to call for vengeance in all of us and to see Robert McCoy's humanity and to send Robert McCoy to jail for the rest of his natural life. I ask you for mercy knowing and understanding mercy is given to all. I'm not asking for your forgiveness. I'm not asking you to condone this. I'm not asking you to put aside your anger. I'm not asking you to put aside your revulsion. I'm asking you to give Robert McCoy mercy and to send him to jail for the rest of his life even if you believe he's not deserving of it. That is the nature of mercy. And I'm asking you to keep your humanity and our humanity alive in this case and that there be no more killing in this courtroom; there be no more talk of death. It's not going to bring anybody back. As painful -- It's not going to make Yolanda's pain, or Eric's pain, or Pauline's pain go away

because nothing's going to happen in this courtroom that's going to -- that's going to -- that's going to heal that. I find words to be inadequate. I tried to do the best I could. Each one of you said that you understood that you are the judges in this case. Each one of you understood and said that when I go back in this room me and me alone got to judge the facts of this case, and me and me alone got to decide whether or not Robert McCoy lives. And I know you can find it in your heart to keep your humanity and our humanity and to grant Robert McCoy mercy in this case and to send Robert McCoy to jail for the rest of his life. Thank you for your time.

THE COURT:

Mr. Marvin.

MR. MARVIN:

Thank you.

(MARVIN – REBUTTAL ARGUMENT)

MR. MARVIN:

Well, I do respect Mr. English and what he has – what he had to work with here and the hard job that he has and what he's done. But if you notice he tells you one minute to put your emotions aside, but now come crunch time he wants to pull your emotions out. As to his comments regarding that there's no evidence of unauthorized entry, the 911 tape, you heard Christine Colston screaming, asking for help. If that's not evidence that Robert McCoy was in her home without her permission I don't know what else we could bring to you. A video tape maybe is about all. But you hear her voice and tell me that you think she allowed Robert McCoy inside her home. As to his statement regarding Gregory that we produced no evidence that he didn't

die immediately, we produced Dr. Traylor and Dr. Traylor told you about his autopsy and he entered into his evidence his autopsy report that states his cause of death and the death certificate. Both of those accurately state his cause of death as being the sixth, one day later. So, Gregory did not die instantly and that's the proof of it and there is evidence in the record to support that. And as to Mr. English's statement to give Robert McCoy mercy, even give it to the -- he said give it to the ones that don't deserve it, give him what he deserves. Give him what he deserves. Each of you swore to God that you could do the right thing. And the right thing here is the death penalty. Thank you.

* * *

THE COURT:

All right, ladies and gentlemen, when this verdict comes back, please, no outbreak in the courtroom, no outbursts in the courtroom. I will stand at ease until a verdict is rendered.

MR. SHERIFF:

Court is at ease until further notice.

**(COURT RECESSES)**

**(JURY DELIVERS QUESTION TO THE COURT)**

**(COURT RECONVENES)**

THE COURT:

Mr. Marvin, you're present, is that correct, sir?

MR. MARVIN:

Yes, sir.

THE COURT:

We're back on the record. Mr. Marvin is present. Mr. English, you're present?

MR. ENGLISH:

Yes, Your Honor.

THE COURT:

And Mr. McCoy is present?

MR. ENGLISH:

Yes, Your Honor.

THE COURT:

The jury stated they would like to be – to see the newspaper article that the coach wrote and that's signed by the foreperson. And I was just going to send the evidence – It's S-101. Any objection to that, Mr. Marvin?

MR. MARVIN:

* * *